

# CITY OF HUNTSVILLE, TEXAS

J. Turner, Mayor



Dalene Zender, Position 1  
Melissa Templeton, Position 2  
Charles Forbus, Position 3  
Lanny D. Ray, Mayor Pro Tem

Tom Cole, Ward 1  
Mac Woodward, Ward 2  
Jack Wagamon, Ward 3  
Wayne Barrett, Ward 4

## HUNTSVILLE CITY COUNCIL AGENDA WORK SESSION (5:00PM) REGULAR SESSION (6:00PM) TUESDAY, MAY 18, 2010

COUNCIL CHAMBERS  
HUNTSVILLE CITY HALL, 1212 AVENUE M

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact the City Secretary's office (936.291.5403), two working days prior to the meeting for appropriate arrangements.

### WORK SESSION [5:00]

The Council will hear a presentation from Bush Power Group and Susan Snyder, Energy Specialist for the City of Huntsville, concerning a proposed plasma arc-solid waste-to-energy-and-diesel facility. [Dr. Sherry McKibben, Community Development Specialist]

### REGULAR SESSION [6:00PM]

#### 1. CALL TO ORDER

#### 2. PLEDGE OF ALLEGIANCE

*U.S. Flag*

*Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state under God, one and indivisible.*

#### 3. INVOCATION

#### 4. PROCLAMATIONS AND PRESENTATIONS

#### 5. PUBLIC COMMENT

#### 6. PUBLIC HEARING

- a. The City Council of the City of Huntsville, Texas will hold a Public Hearing to discuss, receive input, and act upon an ordinance concerning an amendment of Tax Increment Reinvestment Zone Number One, Huntsville, Texas, Project Plan and Finance Plan and expansion of the Zone boundary, making certain findings, and other matters related thereto, and allowing any interested person the opportunity to appear, and speak for or against the benefits of these changes to the City, its residents and property owners in Tax Increment Reinvestment Zone Number One. [Aron Kulhavy, Director of Public Works]
- b. The City Council of the City of Huntsville, Texas will hold a Public Hearing to consider an amendment to Chapter 24, Land Development, Code of Ordinances, regarding section 24-1, on which Huntsville City Council plans to take action. [Aron Kulhavy, Director of Public Works]

#### 7. CONSENT AGENDA

*(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)*

- a. Approve the minutes of the City Council meeting held on the 4<sup>th</sup> of May 2010. [Lee Woodward, City Secretary] p. 1-7
- b. Approve the minutes of the Employee Grievance Hearing held on the 3<sup>rd</sup> of May 2010. [Lee Woodward, City Secretary] p. 8-17
- c. Approve Ordinance 2010-36 to approve stop signs on Avenue O at 21<sup>st</sup> Street, 1<sup>st</sup> reading. [Aron Kulhavy, Director of Public Works] p. 19-27
- d. Approve Ordinance 2010-37 to approve No Parking signs on the north side of 1<sup>st</sup> Street from MLK to Bernice Street, 1<sup>st</sup> reading. [Aron Kulhavy, Director of Public Works] p. 28-31
- e. Approve the Christian Community Construction Team, a nonprofit 501C organization, ID#76-0417488 to tear down, salvage, and haul off debris from the Records Building at 1305 Avenue M. [Aron Kulhavy, Director of Public Works] p. 32-34
- f. Authorize City Manager to award contracts for Real Estate Appraisal and Land Surveyor to Property Insight Property Services, Home Inspection to Insight Property Inspections and Title Service to Walker County Title

- Company. [Winston Duke, Finance Director] p. 35-37
- g. Authorize City Manager to purchase one compact truck and one police flex-fuel SUV from Tommy Vaughan Ford, purchase two 3/4 ton trucks from Caldwell Country and to purchase police equipment from Napa Auto Parts, Safety Vision, Decatur and Graphics Int., with installation by Napa Auto Parts for an amount of \$78,480.00 as identified in the bid tabulation. p. 38-40

**8. STATUTORY AGENDA**

- a. Presentation, discussion and possible action to approve Ordinance 2010-31 on the proposed amendment to Section 24-1 Regulations Adopted of the Code of Ordinances, 1<sup>st</sup> reading. [Aron Kulhavy, Director of Public Works] p. 41-44

**9. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT**

- a. *Presentation, discussion and possible action* to approve nomination of Rolando Salazar to the Huntsville Housing Authority as a Resident Commissioner. [Mayor Turner]
- b. *Presentation and discussion* of Channel 7 six-month report on extended alcohol sales hours. [Councilmember Ray]
- c. *Discussion* of water system capacity issues in relation to Texas Commission on Environmental Quality (TCEQ) regulations. [Councilmember Wagamon]
- d. Update on May 11 Cultural District Day events. [Councilmember Zender]
- e. *Presentation, discussion and possible action* on rules of procedure for press releases. [Councilmember Ray and Mayor Turner]
- f. City Manager's Report
1. Update on water wells.
  2. Update on relocation of TDCJ bat colony.

**10. PUBLIC COMMENT**

**11. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA**

**12. ITEMS OF COMMUNITY INTEREST**

*(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff for which no action will be discussed or taken.)*

**13. ADJOURNMENT**

\*If, during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Sections: 551.071 – consultation with counsel on legal matters; 551.072 – deliberation regarding purchase, exchange, lease or value of real property; 551.073 – deliberation regarding a prospective gift; 551.074 – personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; 551.076 – implementation of security personnel or devices; 551.087 – deliberation regarding economic development negotiation; and/or other matters as authorized under the Texas Government Code.

If a Closed or Executive session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session in order to take action, if necessary, on the items addressed during Executive Session.

**CERTIFICATE**

I, Lee Woodward, City Secretary, do hereby certify that a copy of the May 18, 2010, City Council Agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, [www.huntsvilletx.gov](http://www.huntsvilletx.gov), in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: \_\_\_\_\_

TIME OF POSTING: \_\_\_\_\_ am/pm

TAKEN DOWN: \_\_\_\_\_ am/pm

\_\_\_\_\_  
Lee Woodward, City Secretary

**MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 4<sup>th</sup> DAY OF MAY 2010, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 6PM.**

The Council met in a regular session with the following:

COUNCILMEMBERS PRESENT: J. Turner, Mac Woodward, Jack Wagamon, Dalene Zender, Melissa Templeton, Charles Forbus, Lanny Ray, Wayne Barrett

COUNCILMEMBERS ABSENT: Tom Cole

OFFICERS PRESENT: Bill Baine, City Manager; Leonard Schneider, City Attorney, Lee Woodward, City Secretary

**WORKSHOP SESSION [5:30PM]**

**Council will discuss budget and recycling-related items.**

The Mayor called the meeting to order at 5:30pm.

Carol Reed, Director of Public Utilities, discussed the results of the recycling pilot program thus far, particularly the positive set-out rate the dropping non-compliance numbers. Ms. Reed stated that once the pilot is complete, she intends to present all the data and the pilot survey results to Council, and their proposal, if any, to continue recycling. She said they will continue the current schedule in the pilot area until Council directs otherwise.

**City of Huntsville  
Automated Curbside Recycling Pilot at Elkins Lake  
January 7, 2010 to June 17, 2010**

	Recycling Tonnage - Truck #375- 088	Recycling Tonnage - Truck #375- 097	GARBAGE Tonnage Monday Before Recycling	RECYCLING TOTAL Tonnage	GARBAGE Tonnage Monday After Recycling	Cart Set- Out Count	Average Cart Set- Out Rate	Carts issued at Time of Collection	Non- compliance per Collection Day	Landfill Costs Diverted @ \$66.55 per ton (collection, transportation, salaries, etc.)	Landfill Costs Diverted \$18.25 per ton (actual charge over Scales at Landfill)	Recycling Revenue (Includes Drop- Off Center and Motorist paid to COW)
Thursday, January 7, 2010	6.39	2.73	12.27	19.12	12.58	712	63.5%	1239	57	\$ 553.13	\$ 166.44	
Thursday, January 21, 2010	5.71	2.26	11.95	18.21	13.45	786	63.5%	1234	36	\$ 483.38	\$ 145.45	\$ 766.16
Thursday, February 4, 2010	5.84	2.52	12.08	18.36	11.48	772	63.5%	1235	20	\$ 507.03	\$ 152.57	\$ 663.40
Thursday, February 18, 2010	4.97	2.41	11.38	17.79	12.16	751	63.5%	1237	12	\$ 447.60	\$ 134.69	
Thursday, March 4, 2010	5.26	2.52	11.42	18.78	13.04	768	63.5%	1247	10	\$ 471.86	\$ 141.99	\$ 1,194.28
Thursday, March 18, 2010	5.98	1.94	12.57	19.51	11.04	761	63.5%	1244	19	\$ 443.96	\$ 133.59	
Thursday, April 1, 2010	5.78	2.64	14.06	22.42	14.43	812	63.5%	1242	9	\$ 510.67	\$ 153.67	\$ 543.84
Thursday, April 15, 2010	5.39	2.57	12.75	20.92	12.89	852	63.5%	1248	4	\$ 482.77	\$ 145.27	
Thursday, May 6, 2010												
Thursday, May 20, 2010												
Thursday, June 3, 2010												
Thursday, June 17, 2010												
<b>TOTALS</b>	<b>44.72</b>	<b>19.59</b>	<b>96.46</b>	<b>164.24</b>	<b>100.82</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>\$ 3,900.40</b>	<b>\$ 1,173.66</b>	<b>\$ 3,167.68</b>
<b>Average</b>	<b>5.59</b>	<b>2.45</b>	<b>12.31</b>	<b>18.66</b>	<b>12.60</b>	<b>777</b>	<b>63.5%</b>	<b>1240.75</b>	<b>20.88</b>	<b>\$ 487.55</b>	<b>\$ 146.71</b>	<b>\$ 791.92</b>

Average Garbage Collection at Elkins for both Monday/Thursday collection PRIOR to Pilot: 20.86 tons

**Curbside Recycling**

**2010 Elkins Lake Pilot Program**

**Pluses**

- 63% Average set-out rate
- 8 ton average per collection day
- \$3,900 diverted costs from hauling trash to landfill
- \$3,168 recycling revenue since beginning of pilot (includes drop-off center)

**Challenges**

- Availability of TDCJ offender labor (unit lock-down, otherwise committed)
- A few residents still unhappy about once a week trash pick-up
- ????

**2010-2011 Proposed Implementation Plan**

- Continue with current curbside program in Elkins Lake after pilot end date (6/17/2010)
- Expand curbside program to additional area (Fish Hatchery area, approx. 800 residences)
- Apply for H-GAC grant for recycling carts
- Citizen education and outreach
- Begin curbside program in new area January 2011
- Continue with TDCJ offender labor sorting recyclables/back-up plan haul to Greenstar Processing in Houston

**2010-2011 Estimated Costs (Approximates)**

- Automated Recycling Carts \$ 50,000
- Additional TDCJ offender labor \$ 8,000
- Expansion to Recycling Facility \$150,000
- Round trip fuel to Greenstar (if needed) \$ 150
- \$208,150**

The meeting adjourned at 5:55pm.

## REGULAR SESSION\* [6:00PM]

### 1. CALL TO ORDER

Mayor Turner called the meeting to order at 6:01pm.

### 2. PLEDGES OF ALLEGIANCE

### 3. INVOCATION

Councilmember Barrett gave the invocation.

### 4. PROCLAMATION

The Mayor presented a proclamation in honor of Huntsville Elks Lodge #1981 Youth Week.

### 5. PUBLIC COMMENT

Councilmember Ray thanked the many officers and citizens who had thanked him for the work the Council did the night before. Councilmember Forbus reminded the public of Mother's Day. Councilmember Wagamon noted the City Attorney had not charged for his services the night before, and the Council thanked Mr. Schneider.

### 6. CONSENT AGENDA

*(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)*

- a. Approve the minutes of the City Council meeting held on the 20th of April 2010. [Lee Woodward, City Secretary]
- b. Approve the banking and investment applications with Wells Fargo and Insured Cash Shelter Account. [Winston Duke, Director of Finance]
- c. Approve Resolution 2010-26, authorizing pay for exempt employees during a governor-declared state of emergency. [Winston Duke, Director of Finance]
- d. Approve Ordinance 2010-32, adding Park Rental fees to the FY 2009-10 Fee Schedule. [Winston Duke, Director of Finance]
- e. Authorize the City Manager to accept and implement the TxDOT Aviation Routine Airport Maintenance Grant with a 50/50 match. [Dr. Sherry McKibben, Community Development Specialist]
- f. Approve Ordinance 2010-34 amending the budget for FY09-10. [Winston Duke, Finance Director]

Councilmember Forbus made a motion to approve the consent agenda. Councilmember Ray seconded the motion.

Councilmember Woodward let the Council know that the Finance Committee had reviewed items b & f. Councilmember Templeton and Winston Duke, Finance Director, clarified item c, that it had been reviewed by Personnel Committee.

Councilmember Zender received confirmation from Matt Lumpkins, Director of Community Service, that the Parks & Rec Advisory Board had approved the details of item d.

Councilmember Forbus discussed concern that the public cannot access the baseball fields other than through the leagues. Mr. Lumpkins explained the league schedules, and that Josey Park softball field was available for reservation.

The motion passed unanimously. 9-0.

### 7. STATUTORY AGENDA

- a. **Presentation, discussion and possible action to approve Ordinance 2010-33, amending the Tax Increment Reinvestment Zone #1 project plan and revising the boundaries of the TIRZ, 1<sup>st</sup> reading. [Dr. Wayne Barrett, TIRZ Board president]**

Councilmember Barrett explained that the TIRZ annual report needed to be filed. He also suggested removing the discussion of the expansion of the TIRZ from the Project Plan if the Council had chosen not to vote on it yet. He further called the Council's attention to the proposed interlocal agreement with the County, which had been received earlier this day, particularly the area referring to expansion of the zone.

City Attorney Leonard Schneider said he was led to understand there was not a deadline for filing, and that the Council could vote on both items at the next meeting. Councilmember Barrett said that was fine with him.

The Mayor reiterated Councilmember Barrett's statement that this was a first reading and would not be voted upon this evening.

- b. **Presentation, discussion and possible action to retain the services of law firm of Bickerstaff Heath Delgado Acosta L.L.P. to assist and advise the City of Huntsville and the Public Utilities Director in the**

**management, and possible uses, processes and permitting, and rights of apportioning of wastewater plant effluent return flows. [Carol Reed, Public Utilities Director, Leonard Schneider, City Attorney]**

Carol Reed, Director of Public Utilities, said another municipality had approached the City to possibly purchase wastewater plant effluent return flows, and that the firm the City typically uses has a conflict of interest in this particular matter. The City Attorney said he felt the potential firm's location and familiarity with water issues would be an advantage. Ms. Reed said they were considering seeking a "bed and banks" permit for the discharged water, and was subject to regulatory approval. Mr. Schneider said this process could be challenged by other entities, and could take a year or longer to complete.

The Mayor made a motion to retain the services of the firm to assist and advise the City on this matter. Councilmember Woodward seconded the motion.

Councilmember Cole confirmed that downstream users from the plants proposed to be included would have an opportunity to attend public hearings. In response to his question, Ms. Reed confirmed to Councilmember Woodward that the effluent was, in large part, considered groundwater.

Councilmember Barrett asked about other cities doing this same type thing. Ms. Reed said it was not uncommon for a municipality to have water discharge rights permits for their wastewater. She also confirmed she expected it would involve a significant amount of money, and that she understood the City would attempt to keep its costs low by putting the onus of the expenses on the entity wanting to make the purchase.

Councilmember Forbus asked about the water now. Ms. Reed said currently the City does not receive anything for the effluent at this time, and that the interested party currently did not use surface water. Councilmember Woodward asked about the potential market for the wastewater. Ms. Reed confirmed the interested party was in Montgomery County.

The City Attorney said he thought it was possible that the City might bear the legal costs for advisement, but that the legal fees related to obtaining the water discharge rights permit could be negotiated to be paid by the buyer, and that it could possibly be 30-100 hours of legal work. Councilmember Barrett asked if they should consider a spending limit to the motion.

The Mayor amended his motion to say it would be to retain the firm's services for the initial stage of the project. The Mayor then confirmed with the City Attorney that they would not be authorizing the spending of money, and that a proposal of the scope of services would come back to Council. The Mayor then withdrew his amendment.

The City Attorney said tonight they wanted to know if the Council was interested in pursuing a proposal from the firm.

The Mayor withdrew his initial motion and restated a new motion to authorize the City Staff to pursue the possibility of selling the effluent of the wastewater systems. Councilmember Ray seconded the motion.

Carol Reed asked if the motion could focus on obtaining the rights, rather than on selling the effluent flows. The Mayor suggested that the Council discuss a preliminary budget at the next meeting.

Councilmember Woodward asked if they could authorize the City Manager to pursue and present to Council a proposed scope of work and budget. Councilmember Vagamon asked the motion be reread. Ms. Reed said she would still prefer that the approval was for staff to pursue obtaining the water rights permit, and that it was in the interest of the City to do at this time.

The City Attorney said that because of the water shortage and water restrictions, many cities, municipalities, and governmental entities that use groundwater are now being required to use a certain percentage of surface water. Therefore, governmental entities have limited options to obtain the necessary water. He said the City would first have to get the water rights permit, and suggested getting a request for proposal (RFP) from the firm before approving any money to be spent.

The Mayor said his motion is to state it is the policy of the Council to pursue the opportunity to negotiate the effluent of the wastewater systems.

Councilmember Cole asked if the Council could adjourn into executive session, which they chose to do at 6:49pm and reconvened at 7:01.

The motion passed unanimously, 9-0.

**c. *Presentation, discussion and possible action* on proposed stipulation agreement with Sam's Fast Stop Food Mart. [Leonard Schneider, City Attorney]**

City Attorney said this agreement was a result of direction from Council, and that the agreement had been reviewed by the Texas Alcoholic Beverage Commission (TABC).

Councilmember Woodward made a motion to approve the agreement. Councilmember Cole seconded the motion.

The motion passed unanimously, 9-0.

#### 8. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT

- a. **Presentation, discussion and possible action on Expo Center/Indoor Arena feasibility study, including but not limited to feasibility committee member nominations and appointments. [Mayor Turner, Councilmember Forbus, Chairman of HOT Board]**

Councilmember Forbus said he had concluded that the HOT Board could reassume the responsibility for the initial marketing study, and that they could then present their results to the Council.

The Mayor said he was aware of Councilmember Forbus' idea and in agreement with it.

- b. **Presentation, discussion and possible action to approve the nominations of Wayne Keen, Gerald Norwood and Bill Butler to the Veterans Affairs Advisory Committee. [Mayor Turner]**

The Mayor made a motion to approve the nominees. Councilmember Zender seconded the motion. The motion passed unanimously, 9-0.

- c. **Presentation, discussion and possible action to retain the services of Ken Davis, C.P.A. for determining the allocation of fire service expenses with Walker County. [Mayor Turner]**

The Mayor made a motion to retain Ken Davis and authorize the City Manager to sign the agreement. Councilmember Cole seconded the motion.

The Mayor said this was an opportunity for a third party to determine allocation, and was an important first step to go forward in this matter. He responded to Councilmember's Cole question of timing, saying he thought it would be ready by the first of July.

Councilmember Ray said he was opposed to this. The Mayor said there was an agreement that the City Manager and Finance Director Winston Duke to further clarify the details. Councilmember Ray said he thought the City should go ahead and accept the current interlocal agreement, and then determine the cost per call for the coming year, and tell the County they could pay it or else. Councilmember Ray also recommended not hiring someone local.

The Mayor said that in his discussion with the County Judge, the Judge had said the number needed to be determined by someone objective. The Mayor said he thought the auditor was familiar with both parties' accounting methods, and both parties met with Mr. Davis. The Council then reviewed Mr. Davis' proposal, the County then acted upon it, and the County has now added some items. The Mayor further said that now the City and the County can negotiate, and that the agreement is still nonbinding.

Councilmember Woodward confirmed the agreement would be nonbinding, and asked if Patricia Allen and Winston Duke could meet and determine the same information Ken Davis would. The Mayor said he felt Mr. Duke's time was very valuable during budget season, and may end up costing more. Councilmember Forbus confirmed that the City and County would split Ken Davis' bill.

Councilmember Ray reminded the Council that this was a touchy subject because the larger issue was that the citizens of the City are also County residents and pay most of the County budget. He reiterated his feeling that the Council accept the \$246,000 and tell the County next year what it would cost them for services, that it was simply supply and demand.

Mr. Baine pointed out that the City citizens would still be paying the larger share, even if the County consented to pay a higher figure, and that the County needs to assume responsibility for fire protection.

Councilmember Barrett agreed they needed to sign the current agreement and get the \$246,000 for this year. As for the proposal involving Ken Davis, he thought the Mayor had worked hard on it, appreciated it, and felt the Council should show some support. He suggested the Mr. Duke and Mr. Baine review the agreement as the County had, and make their own proposed changes.

The Mayor said his motion would do this, that it was not asking the Council to approve the agreement as amended by the County. Councilmember Cole said he thought Ken Davis should work with Mrs. Allen and Mr. Duke to arrive at a number, and to remember that many County residents had businesses in the City, and paid a good deal in sales tax.

Councilmember Wagamon said he supported the Mayor and Councilmember Barrett's suggestions, said this looked as if the County was doing something new, and asked the Council to give it a chance. Councilmember Forbus asked when the County's budget was due, and was told the same as the City's, due in October. Mr. Baine pointed out that volunteer firefighters do not have nearly the same cost structure and personnel expenses of stations that are manned.

The Mayor said his motion was to authorize the City Manager and Finance Director to negotiate with Ken Davis to

determine a scope of services. The Mayor said the motion is to retain the services of Ken Davis for determining the allocation of fire service expenses, and that the details of the scope of services would be determined by the City Manager and the Finance Director.

Councilmember Woodward said he would like to have the Council charge the City Manager and the Finance Director to determine the scope of services by working with the County's representative, subsequent to approval by Council before hiring Ken Davis. The Mayor and Councilmember Cole accepted amending the motion in this manner.

Councilmember Zender said she would like Mr. Duke to also prepare what the City's expectations are, in the event the City and County are not able to come to agreement on the scope of services. The Mayor agreed and felt it was critical that they be prepared to move forward if an agreement cannot be worked out. Councilmember Ray said he still felt this was a waste of time, that they could be doing the same thing in July, and have the County then say their budget was done.

Mr. Baine said it was an attempt at compromise, and the Mayor clarified it was an attempt to compromise on a third party to determine the cost of services, on which the City and County have not yet agreed. The Mayor said the County's research had made them even more reluctant to increase their payment.

Councilmember Zender asked what the County had indicated in terms of determining the methodology for determining an allocation. Councilmember Wagamon said he understood Councilmember Ray's point, and suggested Mr. Ray might propose an amendment that Mr. Davis' calculations recognize that the City residents are also County residents. The Mayor said he would second the motion if he would like. Councilmember Ray said the County could still cherry-pick their examples. Councilmember Wagamon withdrew the proposal of an amendment.

The Mayor amended the motion to say "in conjunction with the County." There was further clarification that Ken Davis would not be hired until the Council approved the scope of services agreed on by both parties.

Councilmember Forbus made a motion to call the question. The motion was reread.

The City Attorney clarified that Council was actually considering a motion to close debate, which required a second, was not debatable, and required a two-thirds vote to pass. The Mayor seconded the motion.

The motion to close the debate was approved, 6-3.

The main motion was approved, 6-3.

- d. ***Presentation, discussion and possible action to accept an interlocal agreement with Walker County and accept a payment of \$246,000 for fire protection services for the 2009-10 budget year. [Mayor Turner]***

The Mayor made a motion to accept the payment of \$246,000 for the FY2009-2010. Councilmember Forbus seconded the motion. The motion passed unanimously, 9-0.

- e. ***Presentation, discussion and possible action regarding performance agreement and development agreement with Ravenwood Limited, including, but not limited to, requested expansion of the TIRZ and ownership interests of Ravenwood Limited. [Councilmember Ray]***

Councilmember Ray reminded the Council they had not been sued by Ravenwood Limited, and had not received the promised monthly reports. He suggested the Council demand a Release of Liability from Ravenwood Limited for the Ordinance passed in 2009 for the reduction of the TIRZ before it voted on the expansion.

Councilmember Ray made a motion the Council pass a resolution that it take no action on expanding the TIRZ until a Release of Liability is received from Ravenwood Limited concerning the Ordinance passed in 2009 to reduce the TIRZ, and authorizing the Mayor to sign such resolution. The motion was seconded by Councilmembers Wagamon and Templeton.

Councilmember Cole said he would oppose this, as it was asking for a forfeiture of a Constitutional right. Councilmember Ray said the resolution was specifically in relation to the one specific act. Councilmember Wagamon said he did not believe Ravenwood Limited and Mr. Williams were stupid, that their real intent was to insult, and that he felt they should formally apologize.

Councilmember Ray confirmed two letters alleging possible legal action had been received by the City. Councilmember Forbus said he had attended the Rotary Club meeting where the same occurred. Councilmember Templeton reminded the Council of the actions Ravenwood Limited had taken, and that setting boundaries was important.

Councilmember Barrett said he had a concern that the Council's approach to resolving the issue be framed in a positive way, and ask for a return gesture of goodwill from Ravenwood Limited. The Mayor said he would frame a cover letter with the Resolution with this tone. Councilmember Barrett also said he felt Ravenwood Limited had been working with the City Manager, and that perhaps they perceived this as communicating with the City. Also, that he recollected that they had said they often visited the TIRZ Boards of municipalities, and that our TIRZ

Board did not meet regularly. He hoped they would work harmoniously, while addressing concerns, as the City had made substantive changes to the agreement.

Councilmember Woodward suggested Councilmembers Ray and Barrett invite Ravenwood Limited to lunch, discuss the City's concerns and report to the Council. The City Manager said they were getting into areas handled by the Director of Public Works and himself. Councilmember Ray said he was fine with it, that the Mayor should also attend, and that it was a policy decision along with the ownership issue.

Councilmember Ray said he would withdraw his motion if this were to happen, and Councilmember Wagamon agreed to it as well. The Mayor said Mr. Kulhavy and Mr. Baine would also be included in the lunch.

Councilmember Wagamon said he had heard Councilmembers saying "we" were invested in seeing this development is successful, but that he and many citizens did not feel government should ever have become involved in private development in this project.

Councilmember Woodward said he respected Councilmember Wagamon's feelings, but that Ravenwood was out there and was a viable project, and that citizens had responded in the recent survey that they would like the type of things the development could expand into. Councilmember Woodward asked that they get their questions answered and move forward.

Councilmember Barrett clarified that "we, the City" will have certain financial obligations either way, and had entered contractually into agreements, and that it was in their interest, financially, if there is more development there. He said they needed to maximize the advantage or minimize the damage.

- f. **Presentation, discussion and possible action to instruct City Staff to review the City of Huntsville October 17, 2006 minute order to exercise its option for additional 10 MGD raw water from the Trinity River Authority until the year 2020 and to advise on current status of option, if any, and if further action is needed to confirm or repeal the option. [Councilmember Wagamon]**

Councilmember Wagamon said he would like the staff to look into the agreement before the budget was completed to see if the City could get a better deal. Councilmember Woodward said the City planned for the future, and that there could still be seen a need for water options. He also mentioned industry such as Tenaska that could create a profit for the water.

Councilmember Templeton said the City did not have the ability to treat the water, and that she had voted for it, but always regretted it. She said that if there was a need for the water, in a drought it wouldn't even be available. She further clarified that the price of the water in 2020 was projected to be ten times what it is now, and she wouldn't be able to afford it then.

The Mayor said he thought it was important that they look for ways to utilize this resource they are already paying for. He said he was concerned that it was in excess of the needed capacity, even if they were able to treat it.

Councilmember Forbus agreed, and thought the staff could look for ways to use the water. Councilmember Barrett said, in the future, water would become more of an issue, and encouraged proactivity to leverage the water. Councilmember Ray asked if the contract guaranteed the option of the amount of water, and also wanted to know if there was still water available and how much it was being sold for.

g. **City Manager's Report**

1. **Discussion and guidance for pursuit of a plasma trash-to-diesel and electricity plant.**

The City Manager displayed the process and explained the procedure.

2. **Discussion regarding Going Green conference attendance.**

The City Manager said Councilmembers Forbus and Zender had also attended. Councilmember Forbus mentioned even small things other municipalities are doing to create savings or reduce energy and water usage.

3. **Discussion regarding Hurricane Ike round-two grants funding.**

The City Manager said this was highly regulated and related to HUD housing.

4. **Update on Well 14 repair.**

Carol Reed said the initial repair on Well #14 was at the incorrect depth and was being redone. She also confirmed the repairs on Well #19 would be less expensive than anticipated.

5. **Update on library construction.**

The City Manager had paused due to the discovery of fuel contamination in the ground around the library.

6. **Discussion related to working through water issues.**



The City Manager said the engineer for the 30" pipe would be here in two days. He also said Carol Reed was getting information on the TRA filter. He said they had also asked for a groundwater study to determine the true capacity of the wells. Ms. Reed said it would be a system capacity study. Mr. Baine said the Census typically showed a growth rate of 1.1%, but the current Census could potentially show a rate of 2.2%, and that they needed also to anticipate growth and water needs for 2015 and 2020.

Councilmember Wagamon asked if the 30" line could carry more water. Councilmember Woodward said there are two lines. The Mayor confirmed with Ms. Reed that the 30" line had a larger capacity than currently used.

Mr. Baine recognized the April winners for the Lose for Life Health Improvement Program.

#### 9. PUBLIC COMMENT

John Cromer spoke on the Fire Protection Services Interlocal Agreement, and encouraged the Council to require the County to participate fairly. He also spoke against the expansion of the TIRZ.

#### 10. MEDIA INQUIRIES

There were no media inquiries made.

#### 11. ITEMS OF COMMUNITY INTEREST

*(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff for which no action will be discussed or taken.)*

Councilmember Forbus noted the Huntsville High School Golf Team has represented Huntsville at the State competition. He also reminded the public that Sunday is Mother's Day, and promoted the Statue Gift Shop.

Councilmember Woodward, on behalf of the Sam Houston Folk Festival and Sam Houston Museum, thanked the City's Police Dept. and Solid Waste Dept. for their assistance.

Councilmember Templeton said the Bruce Brothers Airport ribbon cutting would be held on Friday, May 28<sup>th</sup> at 10am.

#### 12. ADJOURNMENT

The meeting was adjourned at 9:06pm.

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Lee Woodward, City Secretary

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**MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 3<sup>rd</sup> DAY OF MAY 2010, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 6PM.**

The Council met in a regular session with the following:

COUNCILMEMBERS PRESENT: J. Turner, Mac Woodward, Jack Wagamon, Dalene Zender, Charles Forbus, Lanny Ray, Wayne Barrett

COUNCILMEMBERS ABSENT: Melissa Templeton, Tom Cole

OFFICERS PRESENT: Bill Baine, City Manager; Leonard Schneider, City Attorney, Lee Woodward, City Secretary

**SPECIAL SESSION [6:00PM]**

**1. CALL TO ORDER [6:06 PM]**

Mayor Turner called the hearing to order, stating that he was the hearing officer for the grievance appeal, based on City Charter provisions. Mayor Turner asked City Secretary Lee Woodward to call roll for the Councilmembers. Seven Councilmembers were present. Mayor Turner stated the Charter requirement for at least six Councilmembers to be present during the hearing had thus been satisfied.

Mayor Turner briefly addressed the format for the hearing, stating that each side would make five minute opening statements, the City would make its case for 15 minutes, Altom would make his case for one hour, and the City would be allowed a ten-minute rebuttal. Both sides would then make closing statements of five minutes each. Mayor Turner said Councilmembers would be allowed questions during the proceedings.

Mayor Turner certified the presence of Wes Altom, and his attorney, Greg Cagle. Mayor Turner acknowledged William Helfand, hired to represent the City in the hearing, and City Attorney Leonard Schneider, present to provide guidance to Council regarding procedures and rulings, not advice regarding how to vote. Following the hearing, Mayor Turner said the Council would enter into executive session to discuss their vote, after which they would return to open session and the vote would be made publicly.

Mayor Turner said the original burden of proof for the hearing would be on the City, to establish that the dismissal or disciplinary decision on behalf of the City was supported by just cause. Then the burden of proof would shift to the employee, Altom, to show that the decision was not supported by just cause. Mayor Turner said he would have the authority to expand the time format if he found it necessary.

**2. EMPLOYEE GRIEVANCE APPEAL HEARING**

**a. Appeal –Wes Altom**

**Appeal and name clearing hearing as requested by Wes Altom.**

**Procedure to be set by city council. [Leonard Schneider, City Attorney]**

**b. Consideration and possible action pertaining to the appeal by Wes Altom on his termination.**

Mayor Turner asked both Cagle and Helfand if they had received written procedures for the hearing, and both confirmed they had. The Mayor opened the floor to Helfand for his five-minute opening statement.

Helfand stated that on April 9, 2010, City Manager Bill Baine terminated Wes Altom's employment with the City for two specific reasons. The first was Baine's recognition that Altom was not acting in a forthright and honest manner in his conduct as the Huntsville Police Department's second-in-command and secondly due to significant manipulation of police records and data in reports pertaining to calls for service at Shenanigan's nightclub. Helfand said Baine would demonstrate that even after an attorney for Shenanigan's provided information questioning the number of calls for service and the nature of those calls, Altom continued to provide false information. Ultimately, Helfand said the City would prove, through documentation and information from Huntsville Police Department (HPD) Sgt. Ron Cleere, that Altom had the correct information available to him but persisted in presenting false information for a second time. Helfand said the propagation of false information led not only to Shenanigan's having to rebut the information publicly, but also in the embarrassment of the City Manager himself.

Helfand cited reports of Lt. Darryle Slaven, Sgt. Kurt Landrum and Sgt. Ron Cleere that Baine was aware of Altom's presentation of false information, leaving him with significant concern over Altom's trustworthiness, particularly in a position of high authority. Helfand stated that Baine approached Altom, recommending he resign based on his feeling that Altom could no longer continue in his position with any credibility as far as he, the City Council, or the citizens were concerned, which Altom refused.

In the meantime, Helfand stated that an Interim Police Chief was hired, but that several individuals approached regarding the position said they would not accept it, as they did not trust Altom. Interim Chief Kevin Lunsford, once having accepted the position, was asked to complete a top-down analysis of the department, in which he outlined his doubts of Altom being able to act in a leadership position with such extensive responsibilities. Helfand said the evidence would show that Baine did not feel that he, the City or the citizens could trust Altom, and that in the action of operating the Huntsville Police Department, Baine discharged Altom for that specific reason.

Mayor Turner opened the floor to Cagle to make his opening statement.

Cagle cited a group of documents he received upon arriving at the hearing that he had requested previously, stating that some of the documents had been created before he made his request and some had been created after. He said he felt the case as a whole would be an after-the-fact case. Cagle stated that Altom was a 21-year employee with exemplary reviews, records of service and evaluations. With those documents considered, Cagle said he could not find cause for Baine's dismissal of Altom until he began a retroactive investigation following the dismissal. Cagle said he felt documents were created after Altom's dismissal to support Baine's decision, and that employees who remained with the City felt that they needed to side with Baine in light of an exemplary employee such as Altom being terminated for no

reason. Cagle said the evidence would indicate that Baine approached a 21-year employee without a shred of paper and said it was "time for [him] to go," without giving him a chance to respond or conducting an investigation, and only after Altom refused did the City begin to compile documentation supporting Baine's decision.

Cagle compared merely calling an employee "untrustworthy" to calling that person a child molester, stating that the accusation was not something a person in Altom's position could just walk away from.

(Mayor Turner addressed the room, following an inappropriate outburst, stating that the hearing was to be conducted in a professional manner and any outbursts could result in removal from the chambers.)

Cagle said he realized he was at a disadvantage, but that at the end of the hearing he was going to ask the Council not to do the easy thing – uphold Baine's decision – but the right thing, to stand behind the employee, Altom.

Councilmember Woodward addressed Helfand, asking for Exhibits A through E, at which point City Attorney Leonard Schneider distributed informational packets to each Council member. Woodward asked if the documents were being viewed for the first time, to which Schneider answered they were being presented as a packet for the first time.

Helfand stated that he wished to invoke the Charter rules requiring any witnesses to be called by Cagle to leave the room and not watch from the adjacent room. The list of witnesses was read, and they left the Chambers and the conference room.

Helfand called Baine as his first witness, and Baine was sworn in by the court reporter.

Regarding Exhibit A1, a notice of termination prepared by Baine in April 2010, Helfand asked if the statements in the letter accurately described his reasons for terminating Wes Altom. Baine responded that it did.

Helfand addressed the first reason Baine listed for Altom's termination, "his general dissatisfaction with the veracity of information provided by the Huntsville Police Department during the recent Shenanigan's event." He asked Baine to explain the statement and how it related to Altom. Baine stated that he felt the information was crafted specifically to gain a desired outcome, addressing specific figures given to the Council. Baine said he requested that the information – summary data provided by both then-Interim Chief Allwin Barrow and Altom – be read through again as it contradicted information provided by Shenanigan's Attorney Bennie Rush. Baine said that once repeat calls, simple drive-bys or backup calls for other officers were taken out of original reports given to Council, the number of calls to Shenanigan's reported over three years diminished by about half.

Helfand asked Baine if Altom had specified why he addressed a period of 25 months in his initial report, to which Baine stated he did not believe so but that it deeply disturbed him. After a while, Baine said, he came to the conclusion that the Shenanigan's numbers were unacceptable, and the Council charged him with finding the true figures. Baine cited reasons Altom had provided for the miscalculations in the original Shenanigan's figures, including poor software, and Helfand asked if Altom had provided such reason before or after Rush pointed out the mistakes in the data. Baine said the reasons were provided after.

Baine discussed two graphs – one based on Altom's initial report and a second based on results Altom presented after "detailed analysis." Baine said the information presented was incorrect. Helfand also drew attention to another slide, which presented original and re-evaluated numbers of physical altercations at a number of bar locations including Shenanigan's. The figures, as Baine discussed, changed drastically once the information was critically evaluated.

Helfand asked about the opinions of those Baine interviewed about the position of Interim Chief, with respect to the knowledge that Altom would serve as second-in-command. Baine said all of those interviewed stated "he needed to go," referring to Altom, and that "they didn't want to work with him." Helfand asked Baine if he had approached Altom with his concerns, which Baine said he did. Helfand also asked if Altom provided information as to why his information was still inaccurate after two reports, which Baine said he did not. Helfand asked if Altom was able to explain why Cleere discovered the falsities, and Baine said he did not discuss Cleere's statements with Altom.

Helfand asked Baine if he asked Lunsford to conduct a staff report upon becoming Interim Chief – Baine said he did and that Lunsford completed the report. Helfand asked if the results of the report changed or strengthened his feelings about Altom, and Baine said Lunsford's report lessened his evaluation of Altom. Helfand asked Baine if he trusted Altom to assist in running the Huntsville Police Department, if he felt comfortable overseeing the operations of the Huntsville Police Department with Altom in a position of power, and if he had confidence in Altom, to which Baine said he did not.

Helfand asked if the decision to fire Altom was in any way affected by the arrest of George Russell, and Baine said it was not. Helfand asked if Altom's previous evaluations had anything to do with his decision, and Baine said they did not.

At that point, Helfand's time for questioning Baine had lapsed. Mayor Turner asked if Cagle had any questions of the chair, which he said he did not. Mayor Turner then gave Cagle permission to call his first witness, who was also Baine.

Cagle asked if he and Baine had met before, and if it was in the conference room following his telling Altom it was "time for him to go," and Baine said it was.

Cagle asked Baine if he had spent most of his adult life in the military and if he understood the importance of documentation, and Baine said yes. Cagle asked if Baine had ever conducted an investigation requiring a review of documentation or video, interviews with witnesses and other steps, and Baine said no. Cagle asked if Baine knew, within the 58 members of the Huntsville Police Department, if there were members who could conduct internal affairs investigations, to which Baine replied there were. Cagle asked if Baine had thought to use these resources, and Baine said no. Cagle asked Baine if he had ever brought Altom in to discuss a specific complaint related to the Shenanigan's information, and Baine said no. Cagle asked if, considering those facts, Baine would consider his actions fair, and Baine responded that his position required him to take every comment made to him seriously.

Cagle referred to a section of the employee handbook regarding investigation before dismissal from duties and a section regarding termination. Cagle asked if Baine had gone to Altom's supervisor, and Baine said he had already had discussions with Altom and Slaven regarding Altom's employment. Cagle asked if Baine had discussed the termination with an HR Director, which Baine said he had not due to the fact that no such position with the City is filled.

Cagle referenced documentation provided to him by the City and asked why Baine had not provided documents justifying Altom's termination sooner. Helfand objected, stating that the City Manager had not been asked for the documents, but the City Attorney had. Cagle asked if any statements made by members of the Huntsville Police Department against Altom had been documented, and Baine said they had not but that he remembered them from individual conversations. Cagle referred to a pre-discipline review from public safety, stating that no such review ever happened, and Helfand objected as no disciplinary action was ever taken against Altom.

Mayor Turner stated that Cagle was allowed to ask questions related to faith and confidence in Altom held by the City Manager. Baine said he had received no written complaints, only oral complaints. Baine said he did feel he had conducted an investigation.

Cagle addressed the 25-month report Baine had addressed in previous testimony, stating that it was the most recent information at the time of the report being requested. Baine agreed that the figures were recent at that time. Baine said he went back to the Chief to ask him to redo the data and to redact all of the obviously wrong information. Cagle asked if it was Baine's testimony that he met with Altom and gave him the opportunity to respond to the mistakes found in the Shenanigan's report, and Baine said it was not. Cagle indicated he was finished with his questions for Baine.

Mayor Turner asked if any Council members had any questions for Baine – none were presented, and he was excused as a witness.

Helfand asked if Baine presented Altom with his notice of termination upon making the decision to terminate him, and Baine said he had.

Cagle then called Allwin Barrow, former Interim Chief, as his next witness. Mayor Turner asked that he be sworn in and verified that Barrow had not heard any of the proceedings.

Cagle asked Barrow to state his name and place of employment for the record. Barrow stated his name – Louis A. Barrow – and that he was a consultant in the Dallas area but had worked as the Interim Police Chief in Huntsville previously for about 16 months. Cagle asked if there were officers who investigated wrongdoings within the Huntsville Police Department, and Barrow said one of three lieutenants assigned to a supervisor usually carried out the role. Barrow said a report was usually completed in those instances in order to substantiate or disprove allegations.

Cagle asked Barrow if he had received any complaints from Baine regarding Altom during his time as Interim Chief, to which he replied he had not. Cagle asked if, had he received such a complaint, he would have investigated it, and he said he would have. Barrow said he investigated the complaints he received while in his positions. Cagle asked about discussions Baine and Barrow had held about Altom during Barrow's time with HPD, specifically discussions related to Shenanigan's and Altom. Barrow said he knew Council was upset about Shenanigan's in general but had not been invited into two executive sessions where the issue was discussed so he did not know specifically why. Helfand suggested that Barrow not be made to speculate, and Mayor Turner asked that Barrow limit his testimony to what he was sure about.

Cagle asked about data compiled about Shenanigan's, and Barrow said there were several sets compiled due to several issues arising. Cagle asked if there was a time where the number of calls for service were requested, and Barrow said the numbers had been requested, and were later reduced based on more stringent requirements. Cagle asked if he remembered Altom's record of service and if he would still stand by his exemplary reviews, and Barrow said yes. Cagle asked, if Baine had approached Barrow with problems with the numbers, if he would have looked into them, and Barrow said yes.

Cagle passed the witness, and Helfand began his questions.

Helfand asked Barrow to discuss some of the reports about Shenanigan's given to Council, asking if he had analyzed any of the included data himself. Barrow said he had not compiled the information himself. Helfand also asked Barrow to discuss a statement Altom made regarding Shenanigan's and the figures presented, specifically an indication that the department could not distinguish calls from Shenanigan's versus calls from its general area. He asked Barrow if that statement had been made the first time the information was compiled and Barrow said yes. Barrow said the information was presented in such a way as to provide as much leverage as possible to convince Shenanigan's management to negotiate with the City. Helfand then asked why Council was not made aware of the issue until after Rush raised questions about the data, and Barrow said making the distinction was not a concern until following Rush's questions. Barrow said the City Attorney was aware that figures from the whole area were being used as a means of facilitating negotiation between the City and Shenanigan's.

Helfand asked if Barrow had knowingly participated in presenting embellished data to the Council, and Barrow said the information may have been embellished. Helfand asked if Barrow participated in that action, and he said he did, and Helfand asked if he did so knowing the statistics were embellished. Barrow said he provided the information knowing that some of the statistics might have been exaggerated. Helfand discussed the use of the information not yet narrowed down to Shenanigan's location only. He asked if Barrow had made it clear to Baine that the first figures presented included statistics specific to the area surrounding Shenanigan's, not just the club itself.

Helfand asked if Barrow was aware of any complaints made against Altom, and he said no. Helfand asked if any such complaint would have been investigated by internal affairs, and he said they would have been handed to a supervisor. Helfand asked if Barrow, in a situation where he did not trust a fellow officer, would have to conduct an investigation to determine why he did not trust that officer. Helfand also asked if Barrow would keep an officer on that he did not trust, and Barrow said he would not. Helfand indicated he was finished with his questions for Barrow.

Councilmember Wagamon stated that the words used in the discussion were "embellished" and "exaggerated," and that he knew that because he had written them down during the discussion.

Mayor Turner said he would like the record to reflect that the raw data related to Shenanigan's was presented to Council on January 19, 2010, as a number.

Councilmember Wagamon asked if, at that point, the numbers were presented in open session, and Mayor Turner said that was correct. Councilmember Wagamon asked if it was stated that the majority of the calls were 911 calls, as he said he remembered, and that he felt that number begged credulity because such a high number sounded more like Iraq.

Councilmember Woodward, calling attention to Exhibit B2, said the number 1,586 included on that exhibit was the first that he remembered being presented, because the Council discussed having as many as 800 calls a year to a single address. He continued to discuss some of the issues with the data that the Council was aware of – such as whether two officers responding to a call counted as one call or two calls – and said the he and the rest of the Council understood that such items would have to be corrected before final numbers were ready.

Councilmember Ray cited the minutes from the January 19 meeting, saying the number of 1,700 calls was reported between four and five times during the meeting. He said the number was questioned, but stood after questions, and that the majority were regarded as 911 calls.

Councilmember Woodward asked who originally asked for the data, and Barrow said City Attorney Schneider and his partner, Steve Weathered, had requested the information. The City Attorney clarified Mr. Weathered had asked for the information because Shenanigan's [liquor] license was coming up for renewal and the City would possibly want to contest it.

Councilmember Wagamon asked if Barrow knew that an accurate breakdown of the types of calls made had been available at the time the raw data was presented to Council, and Barrow said he was, although he said he didn't recall making the statement that most were 911 calls. Councilmember Wagamon asked if Barrow felt most of the people who compiled the information knew the information could have been broken down or if he became aware of it later. Barrow's response was "neither."

Councilmember Ray asked if Barrow had seen Exhibit B2, and he said he did not remember seeing it ever seeing it before.

Cagle resumed questioning Barrow. Cagle asked if Altom attended the January 19 Council meeting, and Barrow said no. Cagle asked if everyone who looked at the data presented at that meeting, including Baine, knew it was considered raw data, and Barrow answered yes, and that there was never any intent to mislead anyone.

Cagle asked Barrow if any Councilmembers had ever come to Barrow and told him he needed to fire Wes Altom, and Barrow said yes. Cagle asked who, and Barrow answered Councilmember Ray, Councilmember Zender and Councilmember Templeton. Cagle asked Barrow if he had been told what to say in the hearing, and Barrow said no. Cagle asked if Barrow had told the truth to the best of his abilities, and Barrow said yes. Barrow also answered that he would not appear at the hearing to lie for Mr. Altom. Cagle asked if Barrow would fire a person based on a bad feeling, and Barrow said no. Cagle asked if Barrow would conduct a documented investigation, and he said yes.

Helfand asked if four Councilmembers came to the Chief requesting that he fire Altom, and he said three did, separately and once together. Helfand asked if these statements were documented, and Barrow said they were not. Barrow further said he had made no documentation of the requests. Helfand asked if Barrow had reported the statements to anyone, and Barrow said he had reported the statements to Baine. Helfand asked what the reasons were that Barrow was given to fire Altom, and Barrow cited an arrest that had occurred before his time with HPD.

Helfand asked if Barrow fired Altom because of any Councilmember instructing him to do so, and Barrow said no. Helfand asked Barrow if he was aware that Baine fired Altom because he did not trust him, and he said he was. Helfand then asked if Barrow had any information that would indicate that Baine did in fact trust Altom and he was lying to Council about his mistrust, and Barrow said no.

Helfand asked why Altom would have used the complex address of Shenanigan's as opposed to its specific physical address in his report, and Barrow said he did not believe he was a party to that decision.

Helfand asked if Altom told Barrow – as Helfand stated Altom told Cleere – that there would be duplications in his report, and Barrow said he knew a call for service would indicate one officer's presence.

Helfand asked Barrow about the amount of calls for service at 1548 11<sup>th</sup> Street which actually occurred inside Shenanigan's.

Helfand called attention to graphs #3 and #4, asking Barrow which one accurately represented the number of fights at Shenanigan's, then asked the same question about #1 and #2 related to the number of arrests. Barrow said he did not know which ones were accurate.

Mayor Turner asked if any Councilmembers had any questions for Barrow.

Councilmember Wagamon said he noticed Barrow mention three Councilmembers, and asked if he understood that Barrow meant that those Councilmembers had instructed him to fire Wes Altom because of the events that occurred involving the arrest of George Russell, and Barrow said yes. Wagamon asked if the instructions were orders, and Barrow said no. Wagamon stated that the Councilmembers did not in fact have the authority to tell Barrow to fire Altom because he did not work for them, and Barrow said no, they did not, agreeing with Wagamon. Wagamon asked about the nature of the request, and the specific words used, and Barrow said it was more of a suggestion of when it would happen, how long it would take and when the investigation to fire was going to be completed. Wagamon asked if Barrow was aware that he (Wagamon) had made a motion to have an investigation conducted into the arrest of George Russell, that was seconded, but failed, and the same Councilmembers Barrow said asked for individuals to be fired voted against the investigation, and further continued by asking if Barrow was present for that vote. Barrow said he was. Wagamon said that would be at odds with those members coming to

Barrow requesting terminations.

Wagamon asked Barrow if he remembered his letter dated November 3, 2009, as he noticed he was conspicuously absent from the list of those who had asked that individuals be fired. He asked if Barrow was aware that he had specifically indicated that he "was not invested in or committed to any possible course of action as a result of these questions being answered." Wagamon said he would have further questions for Cagle based on the November 3 letter.

Councilmember Woodward stated that he did not believe there were any Charter provisions which gave Council the right to make decisions for the Police Department. He said any problem the Council had should go through Baine.

Councilmember Ray asked about a public information request submitted by Bennie Rush, specifically if it was issued for 1548 11<sup>th</sup> Street, Suite B, and Barrow said he did not know. Ray asked if Barrow would deny stating that 1,700 calls were made to Shenanigan's, the majority of which were 911 calls, and Barrow said he did not remember making that statement. Ray asked if Barrow knew whether he had asked that Barrow be fired, and Barrow replied, "Not to me," to which Ray replied, "I assure you, I did."

Cagle made a statement regarding Council members' abilities as neutral fact-finders. Cagle asked Barrow if an investigation on the Russell case was completed, if a report was compiled, and if the report found that Altom and the other officers involved had not done anything wrong, and if the report was submitted to Baine, and Barrow said yes. Cagle asked if Barrow had an open-door policy during his time as chief, and Barrow said he did. Cagle then asked if anyone had come to Barrow to complain about Altom, and Barrow said no. Cagle asked additional questions about the location of a crime related to its reporting, then passed the witness.

Helfand asked Ray for the specific address for Shenanigan's, then addressed Barrow about the use of the specific address. Barrow said if he had used the term embellish that he had misspoken, and that the goal all along was to compile enough data to use in negotiations with Shenanigan's to make them change the way they were doing business.

Councilmember Woodward asked how much of the data was solely prepared by Altom, or whether there was more than one person compiling the data, and Barrow said there were secretaries, Sgt. Cleere and other individuals involved. Barrow said the situation got out of hand before the information could be compiled completely.

Councilmember Forbus said there were several meetings held regarding Shenanigan's, and the 1,700 figure when presented shocked him. Then, a murder occurred which Forbus said he thought took place outside of Shenanigan's and the figures moved to approximately 1,500. He said he didn't know where the data came from originally, but he was making decisions based on information he was given in a Council meeting.

Councilmember Zender addressed Barrow, saying that Barrow testified Zender had told him to fire Altom but that her recollection was much different. She said she and Barrow had held multiple conversations during which Barrow asked what she would do in his situation, and she said she was careful because she did not have a great deal of trust in him at that time. She said the discussions were never about the George Russell arrest, but the investigation following the arrest, and what her advice would be to him in that situation.

Mayor Turner excused Barrow as a witness and asked for a time estimate as far as how long Cagle had remaining in his allotted hour. Cagle also addressed informational materials he generated and asked for them to be distributed. Cagle and Helfand discussed the use of documents generated following a disciplinary action versus a termination.

Mayor Turner said the Council would enter into a 10-minute recess to resume at 8:15 p.m.

Mayor Turner reconvened the meeting, and Helfand made an objection to the first and fifth portions of Cagle's documentation. Cagle responded that his materials provided a standard for just cause, and City Attorney Schneider addressed the Charter provisions related to his response.

Cagle said it had become painfully obvious that there were Councilmembers who were witnesses or were making factual statements to witnesses, and that it was not possible for Altom to have a fair hearing.

Helfand said that, even while Baine had made it clear that the George Russell arrest had nothing to do with Altom's termination, Cagle was using the event as a means of making Councilmembers appear to have had something to do with Altom being fired. Helfand said he felt the situation was inappropriate, and that the real issue at hand was whether the Council believed Baine had just cause in terminating Altom.

Mayor Turner said he would like to respond to two points. He said Council has a policy regarding conflict of interest that must be determined on an individual basis. He also disputed Cagle's statement about predisposition of Council, saying the purpose of the hearing was to give every opportunity for information to be brought forth and considered.

Cagle called Wes Altom as a witness, asking him his address, marital status and number of children, as well as when he moved to Huntsville, where he attended college. Cagle asked Altom if he had ever worked for another police department besides the Huntsville Police Department, and Altom said no. Cagle asked how Altom reached his rank, and Altom said he worked his way up as a patrol officer, then as a detective, then sergeant, then a lieutenant before becoming a captain in October 2009. Cagle asked if all of Altom's evaluations were contained in his submitted documents, and Altom said yes.

Cagle asked if Altom had seen City Exhibit B1, asking if Altom had anything to do with its formation. Then he asked how the compiling of Shenanigan's data had originally come to Altom's responsibility. Altom answered that he had nothing to do with the original group of data, that Chief Barrow had pulled it from records and presented it without Altom's viewing or comment.

Altom stated, at one point, the Chief made him aware of Council concerns of the data, which was everything in the computer system related to 1548 11<sup>th</sup> Street. He said the chief asked that the information be re-run and re-formatted, in order to find all calls for service connected to

1548 11<sup>th</sup>, whereby any Council member could look at particular call types and pull what they felt was not pertinent. He said he did not present that information, either. Cagle asked if Altom or anyone else had made a statement clarifying how the information was pulled, and Altom said the way the search was run was the most accurate way to tally total calls for the location. Regarding the third set of data, Altom said he made a good faith effort to redact portions of the original calls based on the complaints Barrow relayed from Council concerning the original two sets of data. He said he went through the data and pulled calls such as bar checks in order to provide a more accurate number, but that he knew the number would not be exactly accurate because he could not go through the calls individually but through a summary string.

Cagle asked if some of the items Altom pulled would have related to multiple officers' responding to one call being counted as multiple calls, and Altom said yes. Cagle indicated that Councilmember Wagamon had made the statement, and Wagamon corrected him, and Cagle said "and that's why I can't get a fair hearing."

Helfand said Cagle was being unprofessional, and that he did not feel it was appropriate for a lawyer to impugn the veracity of reasonableness in a hearing. Mayor Turner thought Cagle's statement was unfortunate, saying that Council members take their responsibilities very seriously. City Attorney Schneider also asked that Cagle maintain professionalism. Mayor Turner strongly recommended that Cagle be considerate of Council and give them respect.

Cagle asked if Altom had any communications with Council or Baine regarding the Shenanigan's data, and Altom said no. He said Barrow was in communication with Council regarding the data. Cagle addressed a statement written by Altom addressing the good-faith effort to comb through the data, asking if anyone had gone to Altom regarding the statement and Altom said no.

Cagle asked when the first time was that Altom was told he needed to leave the Huntsville Police Department, and Altom said it was the Monday morning after Chief Barrow's resignation went into effect on the preceding Friday, the date being March 22. Cagle asked how Baine informed him of his decision. Altom stated that there was a swearing-in of a new officer, after which Baine asked him to come to the former chief's office, where he stated that he had the chief's resignation and was asking for his. Altom said he asked Baine for his reasons why, and that Baine mentioned Shenanigan's information, that he felt there were problems with it, but did not give him anything in writing or anything specific. Cagle asked for his response, and Altom said he told Baine he did not feel like he had done anything he needed to resign for, and that Baine then told him he was being placed on administrative leave.

Cagle asked when the next time was that Altom spoke with Baine, and Altom said it was the following Wednesday morning, when Baine had scheduled for Altom to receive his termination paperwork. Altom stated that he had arrived with Cagle, and that Baine had cancelled the meeting, saying it would have to be rescheduled for a time when the City Attorney could be present. The next meeting, Altom said, was scheduled for a week and half to two weeks later when the City Attorney could be present, after which he was again left on administrative leave. Cagle asked if, in his investigations, Altom had given the target or subject of the investigation an opportunity to respond to allegations, and Altom said yes. Cagle asked if Altom had been given an opportunity to respond, and he said he was not. Altom said, on the day he received the notice of termination from Baine, he asked if Baine had documentation for the claims in the notice, to which Baine responded he could prove them if he needed to. Altom said he asked whether before or after an action was taken was the time to provide proof, to which he said Baine responded that Texas is an at-will state.

Cagle asked, until the hearing, if Altom had ever received any information beyond the statements in the notice, and Altom said no. Cagle asked if Sgt. Cleere had made any complaints about the information, and Altom said no. Cagle asked if Altom had ever received a write-up from Baine or if any investigation was held regarding his work on the Shenanigan's data, and he said no to both. Cagle asked if there was anything else Altom wanted to tell the Council after being fired after 21 years of service, and Altom said the whole issue came back to communication. He said he understood there was a lot of mistrust, but that the issues put forth were never discussed with him, only about him. He said that was the disappointing part. Cagle asked what Altom was asking Council to do, and Altom said he was asking Council to do the right thing and play by the rules. Altom said in one fell swoop, with his termination, that the Council had told every police officer and City employee that they were going to do what they wanted and throw the rules aside, and that was the last thing the City needed.

Helfand asked Altom what policy Baine did not follow, and he answered the termination of an employee. Helfand asked if Altom knew what at-will meant, and Altom said yes, and that he understood how to properly terminate an employee. Helfand discussed the lack of a specific termination policy which would apply to the City Manager's decision to terminate an employee, and Altom responded by stating that a termination policy was in place for every City employee. Helfand said Baine made the decision to fire Altom because of a lack of trust and asked if Altom understood that. He also asked if Altom had any proof that Baine did trust him and was lying about a lack of trust, and Altom mentioned Baine's signature on his promotion paperwork. Helfand stated that between the time Baine signed the promotion paperwork and the point at which he fired Altom, Baine came to the conclusion that Altom was not trustworthy and investigated to the extent he felt necessary to make that determination. Helfand asked if Altom had heard Baine say that, and he said he had. Helfand asked if Altom could agree that the City Manager needed to trust people in positions of responsibility in the City, and that everyone has to be able to trust police officers, and Altom said sure.

Helfand asked if Chief Barrow had tasked Altom to have others collect the Shenanigan's information, and Altom said that was true for the second set of data. Helfand asked if Altom tasked Cleere to collect the information, and Altom said yes. Helfand asked Altom if, when he tasked Cleere to search for the information by address (according to a statement by Cleere), a search had also been completed by using the name of the establishment as well, or the phone number of the calls. Altom said not all of the options Helfand mentioned were available to the department, but that they did not do a comparison by using Shenanigan's name. Helfand asked Altom if he understood that searching by address had yielded more information than was needed, and Altom said the search was conducted based on what was available. Helfand continued to ask questions related to the information being gathered, related to the program used and the process used. Helfand finally asked Altom if he told Baine why he and Cleere came up with such different results, and Altom answered that there was no discussion between he and Baine on the topic and that he did not know what Baine's concern was.

Helfand asked if the Captain of the police department was a person who should have the City Manager's trust, and Altom said yes.

Mayor Turner confirmed that Helfand was finished with his questions for Altom and opened the floor for Council members to ask questions.



Councilmember Wagamon asked if it was Altom's position that he was terminated as payback for an arrest made following Hurricane Ike when he was in a supervisory position, as he had not heard that point made by Cagle. Altom said his position was that he did not know why he was terminated, because he had only been given a generic reason with no supporting documentation. Councilmember Wagamon said he asked because there was a call to action for support at the hearing for Altom, and in a statement circulated publically, such an arrest was cited and that the person arrested had several "friends" on the Council. Altom said, as he was under oath and asked to be honest, that he could not discount that as a possibility. Councilmember Wagamon asked if Altom felt that the arrest was the reason, and Altom said he did believe that the arrest was part of it.

Councilmember Wagamon made additional references to the statement, which he revealed to have been written by Karen Altom. Karen Altom audibly told Councilmember Wagamon to direct his questions to her. Wagamon asked who provided the information in the statement and who the friends on Council were, and whether the information in the statement still reflected Altom's opinion. Altom said he thought Wagamon should adhere to the rules placed on him and address only the noted reasons for Altom's termination.

Helfand made an objection, stating that Altom should just answer the question. Mayor Turner asked that Altom answer the question, whether the statement reflected his thoughts or not. Altom answered that, based on the testimony he had heard, that the information did reflect his beliefs.

Councilmember Wagamon said he would like to explore the opinions in the statement, and after an outburst from the citizens in the audience, both Mayor Turner and City Attorney Schneider asked that the audience show respect.

Councilmember Wagamon said his attempt was to allow Altom to enumerate his feelings regarding the statement, saying that the statement was serious and deserved to be expounded on. Mayor Turner said he believed Wagamon's question was who was the source of the information in the statement, and he said multiple answers would be accepted. Altom stated that Councilmember Ray is the attorney for George Russell, and Mayor Turner said the statement did not apply to the question. Councilmember Wagamon repeated the statement and his question, and Altom answered that Barrow and Baine had made the statement to him. Wagamon asked if Altom was aware that he had made a motion to have an investigation conducted into the arrest of George Russell, and it was seconded, but it failed, and the same Council members who he said asked for Altom to be fired voted against the investigation.

Councilmember Ray addressed Altom's statement regarding his representation of George Russell. He said another attorney had defended Russell, but that he currently represented about 20 to 30 percent of the Huntsville police force. Councilmember Ray reviewed the account of the events which occurred leading up to Russell's arrest which were provided by Barrow, summarizing that Sgt. Cleere made the arrest after the District Attorney deemed the action appropriate. He said he did not believe Altom had been present at the time Russell was arrested until the current proceedings, to which Altom replied that he did not believe him. Ray reviewed the events which occurred following Russell's arrest, stating that Altom and Cleere were cleared of all suspicion more than a year and a half prior.

Councilmember Woodward said he wanted to make it clear that Council members served the public and that he hoped they would always do the right thing. He asked Altom if he manipulated, falsified, changed or altered the data in any way to give to Council, and Altom said he did not.

Mayor Turner asked for any further questions, and Cagle asked to address Altom.

Cagle asked Altom if he was aware of any reason or factual basis for Baine's mistrust in him, and Altom said no, that it was his understanding that Barrow and Baine had worked closely and Baine stood behind the department, and when Barrow made his exit, that changed. Cagle addressed a section of the employee handbook that required a supervisor to have documentation supporting an action to be made against an employee, asking Altom if he would have needed documentation to terminate an employee, and Altom said yes.

Cagle passed the witness.

Ray asked if Altom had asked for \$240,000 plus retirement benefits in order to leave quietly, and Altom said he asked for it before he was terminated.

Councilmember Wagamon asked if Altom meant the \$240,000 would be in addition to his retirement and medical benefits and if it would be in cash, and Altom said he had meant to stay in the workforce for eight more years.

Altom was dismissed as a witness, and Cagle called David Prier as a witness. Mayor Turner asked if Prier had heard any of the proceedings, Prier answered he had not.

Cagle asked if and how Prier knew Altom, and he said he knew him primarily as his physician. Cagle asked Prier what he would say if Cagle said Altom was untrustworthy, and Prier answered that he could not even imagine that, that untrustworthy would not describe the man he knew. Cagle asked Prier how he would describe Altom, and he said Altom was a very honorable father and very loving and tender, as well as a wonderful husband. Prier said he was grateful that Altom was a member of the police department.

Helfand asked Prier if his opinion was based on when he had seen Altom when he visited for medical reasons and Prier said yes. Helfand asked if the opinion was built based on visits that lasted for less than an hour at a time, and Prier said yes, but added that visits over 17 years were much more than just a few hours. Helfand asked Prier if he had any grounds on which to judge Altom's performance as a police officer, and Prier said that knowing Altom as an honorable father and husband made him believe Altom was also an honorable officer. Helfand asked what reasons he had to believe that, and Prier said Altom had protected the community over the years. Helfand asked if, in his position as a physician who handled confidential information, if Prier did not trust a person he was working with that he would discharge them, and Prier said yes.

Helfand indicated he was finished with his questions, and Mayor Turner asked for Council questions but none were asked. Prier was



permitted to stay for the remainder of the hearing.

Cagle called Brian Smith as a witness, and Smith was sworn in. Mayor Turner verified that Smith had not heard any of the proceedings.

Smith indicated he was self-employed as a financial planner and had lived in the Huntsville area since 1987. Cagle asked how Smith knew Altom, and that one way was through the HISD school board. Cagle asked Smith what he would say if Cagle said Altom was untrustworthy, and Smith said he would laugh because he had always known Altom to be honest both personally and professionally.

Cagle passed the witness to Helfand.

Helfand asked if Smith had any knowledge of the extent to which Altom was involved in the embellishing of Shenanigan's data, and he said he did not.

Mayor Turner asked for any Council questions, none were asked. Smith was permitted to stay for the remainder of the hearing.

Cagle called Paul Davidhizar as a witness, and Davidhizar was sworn in. Mayor Turner verified that he had not heard any of the proceedings.

Davidhizar indicated that he had been a resident of the area since 1991, and he was the headmaster of Alpha Omega Academy. Davidhizar said Altom had served on his school board for nine years and he had come to know Altom during that time at monthly board meetings, board retreats and other events. Cagle asked Davidhizar what he would say if Cagle said Altom was untrustworthy, and Davidhizar said he would say Cagle did not know Altom.

Helfand asked if he could provide any factual reason why the City Manager's reasons for terminating Altom were unjustified, and Davidhizar said he was not familiar with the case, but that Altom had always been honest in his dealings with him. Helfand asked if, in his position as a headmaster, if Davidhizar did not trust a person he was working with that he would have a serious problem, and he said yes.

Councilmember Wagamon asked if Davidhizar was told that there was a group of people conspiring against Altom and Davidhizar said he was not. Davidhizar was permitted to stay for the remainder of the hearing.

Cagle called Loren Brewer as a witness, and he was sworn in. Mayor Turner verified that he had not heard any of the proceedings. Brewer said he was a resident of Huntsville for 25 years, that he was retired from the U.S. Navy, and he had known Wes Altom for several years as a neighbor. He indicated that he and his wife were close to the Altoms' children.

Cagle asked if Brewer considered Altom trustworthy, and he said he would go into combat with Altom to protect him.

Cagle passed the witness to Helfand, who asked Brewer if he knew about Mr. Baine's decision-making process in determining his mistrust for Altom, and Brewer said no. Council did not offer any additional questions for Brewer, and Brewer was permitted to stay for the remainder of the hearing.

Mayor Turner called a recess until 10 p.m.

Mayor Turner indicated that Cagle had two minutes remaining, but he declined using them. Mayor Turner said the next stage of the hearing, the City rebuttal, would begin.

Helfand called Baine, asking if – having heard everything in the evening's hearing – he had changed his position regarding Altom, and Baine said he had not. Helfand asked, if Council reinstated Altom, if he could find a way to work with the police department if it involved him, and Baine said not if Altom were in a position of authority.

Helfand asked that Baine summarize the statement he received from Cleere after making the decision to fire Altom, and Baine stated that Cleere was asked to compile information related to Shenanigan's by using the address. He stated Cleere ran the search for the information and was required to provide a summary of the data, and that a total of 1,586 entries resulted over a three-year period. Cleere said he presented the information to Barrow, Altom, Slaven and Lunsford, explaining that the numbers were all-inclusive and indicated what was put into the system and that the numbers did not necessarily indicate what occurred only at the nightclub and duplications did exist. Cleere said he was informed by Altom that the information was sufficient.

Helfand asked that Baine summarize the statement he received from Slaven. Baine said his statement indicated that he, Barrow, Altom and Lunsford were in a staff meeting the first time he heard of the need for data related to Shenanigan's calls for service to be used for some kind of action against the club. Baine said Slaven was not sure what they wanted but he knew they had a reason to ask for them. When the data was returned, Slaven indicated Cleere said the numbers were raw and Barrow indicated that the higher the numbers were, the better. Slaven recalled an additional staff meeting where Barrow presented the numbers to Council after which Altom and Barrow talked about cleaning up the numbers. Slaven said Altom specifically said he would work on the data instead of Cleere.

Helfand asked that Baine summarize the statement he received from Lunsford. Baine read that Lunsford recalled Cleere being asked to compile information related to Shenanigan's by using the address 1548 11<sup>th</sup> Street for a certain time period. He was first asked for two years of data, then three, and Lunsford said he was physically present when Cleere presented the numbers to Altom and Barrow and indicated that they represented raw data. Helfand asked Baine if he had learned from Sgt. Kurt Landrum that the term "full-court-press" had been used in relation to the Shenanigan's data by Altom, and Baine said yes.

Helfand asked if the arrest of George Russell factored at all into Baine's mistrust in Altom, and Baine said it did not.

Cagle asked Baine if it was his feeling that he was free to "fly his own mission" in a situation like this one, and Baine said yes. Cagle asked if

that policy was written down somewhere, and Baine said no. Cagle asked about the sources of the statement memorandums given to the City as exhibits, and Baine said they were written by the individuals who made the statements originally. Cagle asked how the individuals knew the statements would need to be written down, and Baine indicated that the need for written memos was understood when the statements were made. Cagle asked about the lack of post-termination paperwork for Altom, and Baine said he had not asked for such paperwork to be completed. Cagle further discusses Baine's actions before and after terminating Altom. Cagle also discussed the three sets of data regarding Shenanigan's, and Baine said material given to the Council was based on the 1,586 figure and a summary of the calls in that figure as well as information later provided. Cagle asked if Baine thought any of the character witnesses were liars, and Baine said no.

Cagle passed the witness to Council. Mayor Turner asked for Council questions.

Councilmember Ray referenced Exhibits B1 and B2, and asked whether it was his understanding that those two exhibits were provided prior to the January 19 Council meeting, and Baine said yes. Ray said that sometime after that, the number 1,700 with the majority being 911 calls dropped down to 1,586, then 750, then 545 with very few 911 calls included.

Councilmember Ray mentioned the man who was killed near Shenanigan's, who, the Council heard on January 19, had actually been thrown out of Shenanigan's. Baine said he did not know if the autopsy results were sealed or not, but that he was told that the man had no alcohol in his system. Ray asked what material facts there were that may have been important, and Baine said it appeared that two men were stealing purses from nearby cars, locked them in the victim's car, and then the two men had a falling out of some kind and the first stabbed the second to death. Baine said he thought Altom made a statement to the Huntsville Item regarding the incident. Ray asked if Baine remembered whether Altom was present on January 19, and Baine said he did not know.

Ray asked why Barrow left the City's employment, and Baine said Barrow was gone because Baine felt he was being deceived intentionally. Ray asked Baine who he thought Ray felt was behind the George Russell arrest, and Baine answered it was the District Attorney.

Mayor Turner asked for Cagle's rebuttal witnesses, and Cagle said he did not have any. Mayor Turner gave the attorneys permission to proceed with their closing arguments.

Helfand said the evidence showed very clearly, especially through the testimony of Barrow, the police department had attempted to misrepresent to Council and to the City Attorney that a City business was operating at a much different level than it actually was. He stated that Barrow came to the hearing and admitted that the data presented to Council was "embellished" in such a way that it made the establishment, Shenanigan's, look worse than it actually was. Helfand cited the statements of several officers involved in the incident, who all stated they knew the data being presented was raw and misleading. Sadly, Helfand said, Altom refused to acknowledge his own role in that situation, to acknowledge that he had been less than truthful. Thus, Helfand said Baine had not only proven just cause for removing Altom from employment of the City, but Altom's own refusal to acknowledge his role in deceiving the Council and the public demonstrated that Altom was not fit for the position of Captain. He concluded that anything but to uphold Baine's decision would be a disservice to the City.

Cagle began stating that, after going through Altom's personnel file, he felt the City was lucky to have an employee with outstanding evaluations, extensive training and 21 years of experience. He said it was obvious the City had invested a multitude of funds in Altom's continued training and education. Cagle said there should be documents for the Council and the administration to refer back to related to Altom's termination outside of an after-the-fact investigation, and that job security was in danger for officers in the City. Cagle also addressed Baine's lack of compliance with written termination procedures. Cagle said his goal was to get a fair shake for Altom, and that he was not asking Council to do the easy thing, but the right thing.

Helfand stated that both sides wished for a fair outcome, citing the City Charter as a document that appoints the City Manager as Chief Executive Officer for the City, making terminations under his discretion.

### 3. EXECUTIVE SESSION

Council recessed to Executive Session at 10:44 p.m. as authorized by Section 551.074 of the Texas Government Code to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an employee-Wes Altom.

### 4. RECONVENE

The Council reconvened into open session at 11:28 p.m.

Mayor Turner addressed the importance of the hearing.

Mayor Turner made a motion as follows, "On May 3, 2010, a hearing was held on the administrative appeal of Wes Altom, appealing the decision of the City Manager to terminate Mr. Altom. The Council meeting where the hearing was heard was posted according to state law. Both sides were given proper notice of the hearing day and appeared to submit evidence. The City was represented by Mr. Bill Helfand, and Mr. Altom was represented by Mr. Greg Cagle;

The City Manager has met his initial burden of establishing that the dismissal of Mr. Altom is supported by just cause;

Mr. Altom has failed to show that his dismissal was not supported by just cause;

The City Council's decision and finding are based solely on the evidence and testimony presented at the hearing or was prefiled with council;

The City Council's decision is based solely on the evidence presented:

Based on the evidence and testimony presented at the hearing, the City Council believes the decision of the City Manager to terminate the employment of Mr. Altom should be sustained and that just cause exists for this dismissal.

Councilmember Wagamon seconded the motion.

Mayor Turner opened the floor for Council discussion. He stated that the decision was difficult, and it was not easy to make the kind of judgment required in the hearing for a person who had played a valued role in service of the City. However, Mayor Turner said, it was also important to consider trust in those in service of the City. Speaking for himself, Mayor Turner said the decision was one he had to make and that was the reason he was comfortable in making the motion.

Councilmember Wagamon said, in the hearing, it was not offered by Cagle or the Council that the decision to uphold Altom's termination had anything to do with payback for George Russell's arrest. He said there was never anything offered by Council, and that there was a good-faith effort made by himself to try to get that claim substantiated. He said he hoped the public could appreciate that, given the opportunity to address the issue, there was nothing offered to substantiate the claim, not a word.

Councilmember Barrett said there were several things for him to address related to the agonizing decision. First, he addressed the idea, sincere on the part of some, about the decision having anything to do with George Russell. Barrett said he spoke for himself in saying it was absolutely preposterous that the event would influence in any way the decision to be made regarding Altom. Barrett said he wanted to say a little bit about the Shenanigan's numbers, backing up to when the decision was originally made to extend drinking hours by two hours. No one, he said, spoke more against the decision than he did, and he said he could wish that the kind of turnout present for Altom's hearing had been present for the decision to extend the drinking hours. Barrett said maybe, had such a turnout been present, that the hearing regarding Altom's termination might not have happened. He said he still maintained an interest in how the extension of those drinking hours has affected the City with respect to arrests and crime, and that the numbers discussed in the evening's hearing applied to those effects. He said it was very important to have reliable figures with which to make decisions and serve the citizens of Huntsville, and he felt he had no idea how long it would take to get reliable figures after the events that occurred.

Barrett said he agreed with Councilmember Woodward concerning the separation of powers, saying that he has stood resolutely by how the Charter lays out the roles of City administration. He said he had never discussed personnel issues with the City Manager, and he had a role to play whether he agreed with the personnel decisions of the City Manager or not. He said he had to consider whether the decision at hand was within the purview of the City Manager or not, and that the decision regarding Altom was in that category. Barrett also said it could have been handled differently, but it was the City Manager's decision. Barrett concluded that the positive statements made regarding Altom during the hearing had been accurate, and his decision was not based on his character but on an analysis of whether the decision to terminate Altom was in the purview of the City Manager.

Councilmember Woodward said he regretted that Huntsville was having to go through the hearing. He said he was not going to support the motion for two reasons, based on information submitted during the hearing. Woodward said he could not, in good conscience, say that Altom intentionally misled the Council or falsified information. He said he felt it was difficult to get a handle on specific figures based on a location. Woodward also said he thought it was owed to employees to follow a specific process when they have done wrong, and he did not feel the City went through that process. Woodward said he still supported Mr. Baine, but felt there was more to the situation than was on the surface. He said he had a great deal of respect for the Council, Altom and Baine, but felt the situation was mishandled from the beginning.

Councilmember Forbus said the decision was very difficult, but that he felt the Council needed and did not receive good information, and thus he would support the City Manager on his decision to terminate Altom.

Councilmember Zender said the Council was given inaccurate information and she did feel the decision to dismiss Altom was in the purview of the City Manager. She said she did not see how the City could continue to employ Altom under the condition that the City Manager did not have faith in him.

Councilmember Ray said the situation was sad, and that he was convinced the witnesses for Altom, namely Davidhizar and Smith, were telling the truth about Altom's character. However, he said, it was undeniable that there was a deception perpetrated on the City Council, City Manager and citizens all at once, and that the Council was asked to make a decision that could affect the entire city based on that deception. He said he had hoped that some evidence would be presented by Altom to show lack of involvement or penitence, but that he did not feel Altom furthered his cause by attacking the Council, bringing in the former Interim Chief Barrow who was also involved in the deception, and not even admitting that the original figures submitted were wrong. Ray said if Altom had wanted a "fair shake" that he should have presented his case. Further, he stated that Cagle using Barrow as a witness to testify in opposition to statements made and recorded in previous Council meetings was not due diligence, and that it did offend him personally.

Mayor Turner called for a vote.

The Council voted 6-1, with Councilmember Woodward voting against upholding Baine's decision.

## 5. ADJOURNMENT

Mayor Turner adjourned the meeting at 11:52 pm.

\_\_\_\_\_  
Lee Woodward, City Secretary

P18 - blank

# City Council Meeting Agenda Item

Item Title:

**Ordinance amending traffic schedule**

Date:

5/4/2010

Agenda Item No.:

7c

Requested By:

Aron Kulhavy, AICP, Public Works Director

Dept./Div:

700

Dept. Approval:

AK

**Issue/Item Description:**

Adoption of an ordinance amending the traffic schedule to ratify stop signs on Avenue O at the intersection of 21st Street.

**Background:**

Upon receiving a petition requesting traffic control on Avenue O, traffic counts and an engineering study were completed to review the current conditions. Upon completion of the study, stop signs were found to be warranted at the intersection of O and 21st because of sight distance issues.

The stop signs that were installed have improved the safety in this location by reducing the chance of conflict due to sight issues. As a secondary benefit, speeds along Avenue have been reduced.

Since the installation of the signs, additional traffic counts have been completed. At this time, the counts are being analyzed and further traffic control implements may be necessary to relieve any excessive traffic or speeding in the area.

**Facts to Consider:**

- Staff received petition for traffic control along Avenue O
- Traffic counts and a study were completed by engineering staff
- Concerns of sight distance were found at the intersection of Avenue O and 21st Streets warranting stop signs on Avenue O
- The signs have been in place for approximately 90 days and have had a positive impact on safety

**Fiscal Impact/Funding Source(s):**

none

**Attachment(s):**

- Ordinance
- Request petition
- Traffic Study

**Recommendation(s):**

- Approve the adoption of the ordinance to amend the traffic schedule.

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**MOTION:** ☐

**SECOND:** ☐

**VOTE:**

☐ **PRESENTED**

☐ **APPROVED**

☐ **DECLINED ACTION**

☐ **TABLED**

☐ **OTHER**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING CHAPTER 44, TRAFFIC AND MOTOR VEHICLES, OF ITS CODE OF ORDINANCES BY PLACING STOP SIGNS ON AVENUE O AT 21ST STREET; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, THAT:

Section 1: The following described stop intersection shall be PLACED by the amendments shown below:

Intersection On  
Avenue O

At  
21<sup>st</sup> Street

Section 2: The City Manager is authorized and directed to cause the placement of proper signs along the above described streets.

Section 3: It shall be unlawful for driver of a vehicle to disobey the instruction of the signs placed in accordance with the provisions of this ordinance unless at the time otherwise directed by a Police Officer.

Section 4: Any person, firm or corporation violating any provision of this ordinance or failing to comply with any requirement of the ordinance will be guilty of a misdemeanor as provided by Article I, Section 44-4 of Chapter 44 of the Huntsville Code of Ordinances being punishable by a fine of not less than \$1.00 nor more than two hundred (\$200.00) dollars; except that minors who have passed their 14<sup>th</sup> birthday but have not reached their 17<sup>th</sup> birthday shall be punished by a fine of not more than \$100.00.

Section 5: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect any of the remaining provisions of this ordinance.

Section 6: All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 7: This ordinance shall take effect ten (10) days after its passage by the City Council. The City Secretary shall publish the caption of this ordinance in the official City newspaper at least twice within ten (10) days of its passage.

PASSED AND APPROVED THIS 18TH DAY OF MAY 2010.

THE CITY OF HUNTSVILLE

\_\_\_\_\_  
J. Turner, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lee Woodward, City Secretary

\_\_\_\_\_  
Leonard Schneider, City Attorney

**TO THE HONORABLE CITY COUNCIL MEMBERS OF HUNTSVILLE, TEXAS:**

WE, the law abiding, tax paying residents of Avenue O from 19<sup>th</sup> street to 22<sup>nd</sup> street, do hereby petition this governing body to grant us relief from the excessive amount of automobile traffic which presently traverses our peaceful residential neighborhood.

WE humbly request:

- 1) THAT the proposal to have parking limited to only the East side of Ave O from 19<sup>th</sup> street to 22<sup>nd</sup> street be not considered.
- 2) THAT a four way stop intersection be created at Ave O and 21<sup>st</sup> street.
- 3) THAT 3 speed tables be placed between 19<sup>th</sup> and 22<sup>nd</sup> street.
- 4) THAT two signs be placed -- one entering our residential neighborhood from 19<sup>th</sup> street, the other at the 22<sup>nd</sup> street entrance -- stating:

**RESIDENTIAL AREA  
NO THRU TRAFFIC  
←TAKE ALTERNATE ROUTES→**

WE, the below signed, therefore humbly request these actions be moved upon swiftly so that we, the residents of this residential neighborhood, may be granted relief from:

- 1) Excessive trash being thrown from passing vehicles;
- 2) Excessive noise from "loud" vehicles late at night;
- 3) The too often inability to back out of our own drives;
- 4) The speeding vehicles that too often exceed 30 m.p.h.;
- 5) The danger caused from the amount of vehicles which all too often run through the one set of stop signs we do have posted at the 20<sup>th</sup> street intersection;
- 6) The excessive traffic that threatens our young children and dogs who often play in their front yards;
- 7) The increasing amount of thefts that have occurred recently possibly due to more passersby driving through our peaceful residential neighborhood.
- 8) A more than likely devaluation of our property values.

WE, the undersigned, seek the Council's help in keeping our peaceful residential neighborhood just that---peaceful, quiet, and safe. As the only area within the city limits designated as a Historic Homestead area we humbly beseech you to limit the traffic through our neighborhood instead of increasing it so that our peaceful residential neighborhood may return to a quieter, more peaceful way of life.



WE, the undersigned, all seek the relief outlined in the letter on page 1 of this document regarding the stoppage of any action to limit parking on Ave O from 19<sup>th</sup> to 22<sup>nd</sup> street and further action to limit the flow of traffic through our residential neighborhood.

Printed Name	Signature	Address
JAKE FUQUA	Jake Fuqua	2010 AVE O
Glenda Fuqua	Glenda Fuqua	2010 AVE O
Christy Fuqua	Christy Fuqua	2010 AVE O
LEE GILLILAND	Lee Gilliland	2006 AVE O
Charles Gilliland	Charles Gilliland	2006 AVE O
Colleen Spencer	Colleen Spencer	1522 20 <sup>th</sup> St; Corner O & 20 <sup>th</sup>
CASEY SPENCER	CASEY SPENCER	1522 20 <sup>th</sup>
JEFF SPANGLING	Jeff Spaulding	1911 AVE O
Shana Spaulding	Shana Spaulding	1911 AVE O
Eloise Powell	Eloise Powell	1909 Ave O
Bonnie Sanders	Bonnie Sanders	1421 19 <sup>th</sup> St
DANA L.D. SMITH	DANA L.D. SMITH	1914 AVE O (V1+2)
John Western McCoy	John Western McCoy	2012 AVE O
Diane McCoy	Diane McCoy	2012 AVE O
Lesley McCoy	Lesley McCoy	2012 Avenue O
Jennifer Johnston	Jennifer Johnston	2020 Ave. O
Charles Walker	Charles Walker	2020 Ave. O
Anthony C. Zornick	Anthony C. Zornick	2013 Ave O
CLYDE L. AVELLE	Clyde L. Avelle	2013 Ave O
Gillian Gammara	Gillian Gammara	2015 Ave O
Robert Vann	Robert Vann	2108 AVE O 1/2 only
Sharon Vann	Sharon Vann	2108 Ave O (1+2 only)
Amanda Nowlin-O'Bannon	Amanda Nowlin-O'Bannon	2028 Ave. O (2 only)
MATT HENKE	MATT HENKE	2011 AVE O
Sherry Henke	Sherry Henke	2011 Ave O



## MEMORANDUM

**TO:** Aron Kulhavy, Planning Director  
**FROM:** David Smith, P.E., Interim City Engineer  
**DATE:** December 8, 2009  
**SUBJECT:** Avenue O – Traffic Study for Stop Signs  
between 19<sup>th</sup> Street and 22<sup>nd</sup> Street

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As requested, an analysis has been performed regarding the need for stop signs on Avenue O between 19<sup>th</sup> Street and 22<sup>nd</sup> Street. The initiating citizen petition and a location map are attached.

The citizen request for a 4-way stop at Avenue O and 21<sup>st</sup> Street will be addressed first. In accordance with the TxDOT Manual on Uniform Traffic Control Devices (MUTCD), the following information is required to determine if stop signs are warranted at intersections:

1. Vehicular accident reports.
2. Traffic and pedestrian volumes, average daily volumes and peak hour volumes.
3. Traffic speeds, including the 85<sup>th</sup> percentile speeds approaching each intersection.
4. Adequacy of driver sight distances.

### VEHICULAR ACCIDENTS

The MUTCD requires:

1. A minimum of 5 accidents in a 12-month period that are susceptible to correction by a multiway stop installation. Such accidents include right- and left-turn collisions as well as right-angle collisions.

Of a total of five (5) HPD accident reports for the last two years, none were due to excessive speed or correctable by additional stop signage. Therefore, stop signs are not warranted for this criterion on Avenue O at these locations.

TRAFFIC VOLUMES

The MUTCD requires:

2. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any 8 hours of an average day, and
3. The combined vehicular volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 vehicles per hour for the same 8 hours, with an average delay to minor-street traffic of at least 30 seconds per vehicle during the highest hour, but
4. If the 85<sup>th</sup> percentile approach speed of the major-street traffic exceeds 45 mph, the minimum vehicular warrants are 70% of the above values.
5. Where no single criterion is satisfied, but where Criteria 1, 2 and 3 are all satisfied to 80% of the minimum values, Criterion 4 is excluded from this condition.

Six (6) traffic counters were used in this study over a one (1) week period and traffic counts at the subject locations show:

Address Block	Direction	Counter ID	ADT Vol.	Highest Hourly Vol.	Vehicles/Hr-8 Hr Period
1900	N'bd	9163	566	59	47
	S'bd	9191	753	102	76
2000	N'bd	9155	677	74	52
	S'bd	9157	328	58	37
2100	N'bd	9166	560	64	47
	S'bd	9190	676	84	66

Address Block	Criteria 2 Met?	Criteria 3 Met?	Criteria 4 Met?
1900	No(161)	N/A	N/A
2000	No(89)	N/A	N/A
2100	No(113)	N/A	N/A

### TRAFFIC SPEEDS

Traffic speeds on Avenue O were recorded and are summarized here:

<b>Address Block</b>	<b>Direction</b>	<b>Counter ID</b>	<b>85<sup>th</sup> Percentile Speed</b>
1900	N'bd	9163	34.1
	S'bd	9191	29.6
2000	N'bd	9155	37.9
	S'bd	9157	35.3
2100	N'bd	9166	32.8
	S'bd	9190	34.7

The posted speed limit on Avenue O is 30 mph and the 85<sup>th</sup> percentile speed averaged approximately 34 mph which supports the existing speed limit. There does not appear to be a problem with excessive speed on these three (3) blocks of Avenue O.

While the 85<sup>th</sup> percentile speed on Avenue O is higher than the posted speed, the MUTCD recommends against using stop signs for speed control. Therefore the speed warrant for these locations is not met.

### SIGHT DISTANCE

The sight distances for drivers stopped at Avenue O on 21<sup>st</sup> Street are not adequate for the posted speed of 30 mph. Trees and shrubs partially obscure the view from vehicles stopped on 21<sup>st</sup> Street. Therefore, stop sign warrants for sight distances are met. See table below and photos attached.

<b>Intersecting Street</b>	<b>View Direction</b>	<b>Required Sight Distance</b>	<b>Existing Sight Distance</b>
21 <sup>st</sup> St	North	200'	150' +/-
	South	200'	150' +/-

### SUMMARY

The stop sign warrant for sight distance is met on Avenue O at 21<sup>st</sup> Street; therefore the installation of stop signs at 21<sup>st</sup> Street is warranted.

As an additional safety consideration, "No Parking Anytime" signs could be installed on Avenue O for 200 feet each direction from 19<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup> Streets. This would keep the required sight distances clear of parked vehicles.

An investigation into the citizen request for speed tables and neighborhood signage will follow in the near future.

# City Council Meeting Agenda Item

Item Title:

**Ordinance amending traffic schedule**

Date:

5/18/2010

Agenda Item No.:

7d

Requested By:

Aron Kulhavy, AICP, Public Works Director

Dept./Div:

700

Dept. Approval:

AK

**Issue/Item Description:**

Adoption of an ordinance amending the traffic schedule to ratify no parking signs on the north side of 1st Street between MLK and Bernice.

**Background:**

Staff received a call concerning the number of cars parked along 1st Street east of MLK on both sides of the road. The concerns were in regards to the narrow street width and the potential for emergency vehicles to have problems accessing the street with vehicles parked on both sides.

Upon receiving the request, staff conducted site visits and recommended placing no parking signs on the north side due to the fewer number of lots and the provision of off-street parking on that side of the street. The signs were placed under the authorization of the City Manager.

**Facts to Consider:**

- Staff received concern for emergency vehicle access on 1st Street
- 1st Street is narrow and provided for parking on both sides of the street
- No parking signs were placed on the north side of the street to alleviate access concerns
- The signs have been in place for approximately 90 days and have had a positive impact on safety

**Fiscal Impact/Funding Source(s):**

none

**Attachment(s):**

- Ordinance
- Map

**Recommendation(s):**

- Approve the adoption of the ordinance to amend the traffic schedule.

**MOTION:** ☐**SECOND:** ☐**VOTE:**

☐ PRESENTED

☐ APPROVED

☐ DECLINED ACTION

☐ TABLED

☐ OTHER

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING CHAPTER 44, TRAFFIC AND MOTOR VEHICLES, OF ITS CODE OF ORDINANCES BY PLACING NO PARKING SIGNS ON 1<sup>ST</sup> STREET BETWEEN MARTIN LUTHER KING AVENUE AND BERNICE STREETS; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, THAT:

**Section 1:** The following described no parking zone shall be ratified by the amendments shown below:

<u>Street</u>	<u>Between</u>
<i>1<sup>st</sup> Street</i>	<i>MLK and Bernice</i>

**Section 2:** The City Manager is authorized and directed to cause the placement of proper signs along the above described streets.

**Section 3:** It shall be unlawful for driver of a vehicle to disobey the instruction of the signs placed in accordance with the provisions of this ordinance unless at the time otherwise directed by a Police Officer.

**Section 4:** Any person, firm or corporation violating any provision of this ordinance or failing to comply with any requirement of the ordinance will be guilty of a misdemeanor as provided by Article I, Section 44-4 of Chapter 44 of the Huntsville Code of Ordinances being punishable by a fine of not less than \$1.00 nor more than two hundred (\$200.00) dollars; except that minors who have passed their 14<sup>th</sup> birthday but have not reached their 17<sup>th</sup> birthday shall be punished by a fine of not more than \$100.00.

**Section 5:** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect any of the remaining provisions of this ordinance.

**Section 6:** All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

**Section 7:** This ordinance shall take effect ten (10) days after its passage by the City Council. The City Secretary shall publish the caption of this ordinance in the official City newspaper at least twice within ten (10) days of its passage.

**PASSED AND APPROVED THIS 18TH DAY OF MAY 2010.**

**THE CITY OF HUNTSVILLE**

\_\_\_\_\_  
J. Turner, Mayor

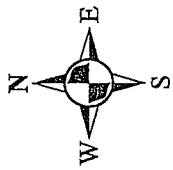
**ATTEST:**

**APPROVED:**

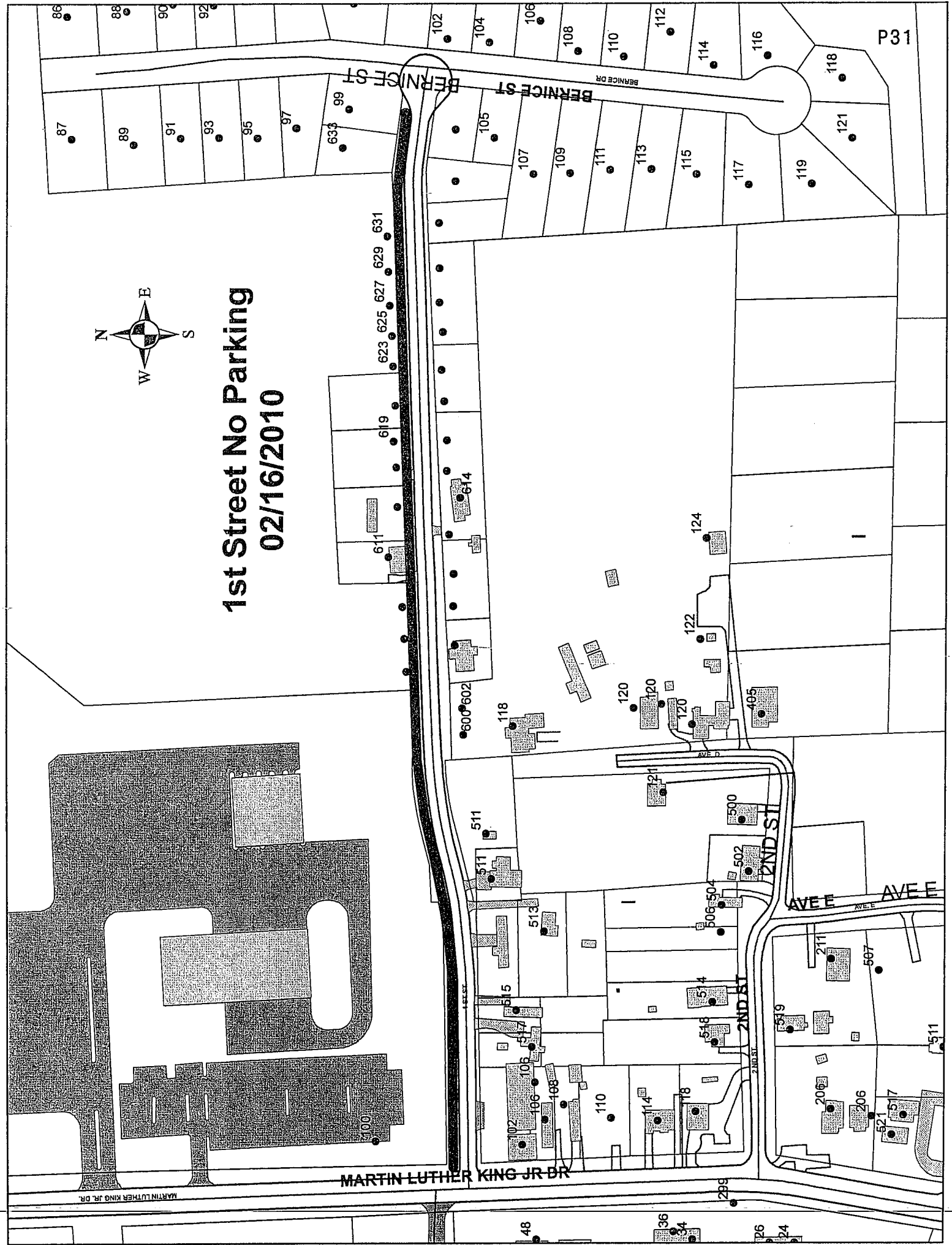
\_\_\_\_\_  
Lee Woodward, City Secretary

\_\_\_\_\_  
Leonard Schneider, City Attorney





# 1st Street No Parking 02/16/2010



# City Council Meeting Agenda Item

Item Title:

**Records Building Demolition**

Date:

5/18/2010

Agenda Item No.:

7c

Requested By:

Tom Weger, Project Manager

Dept./Div:

717

Dept. Approval:

AK

## Issue/Item Description:

Approval to allow the Christian Community Construction Team, a nonprofit 501C organization, ID#76-0417488, Noah Speer, President of the Corporation, to tear down, salvage, and haul off debris, except for the concrete slab (by City) of the Records Building at 1305 Ave M.

## Background:

As part of the renovation project at the Huntsville Public Library, the Records Building will need to be demolished and removed to make room for said Library Improvements.

## Facts to Consider:

- The City desires to make use of the material in order to help community projects for the needy.
- Existing quote of \$2000 will not be accepted
- Salvaging the material will lessen the impact on disposals at the landfill.

## Fiscal Impact/Funding Source(s):

none

## Attachment(s):

- Contract

## Recommendation(s):

- Approval to allow the Christian Community Construction Team, a nonprofit 501C organization, ID#76-0417488 to tear down, salvage, and haul off debris from the Records Building at 1305 Avenue M.

MOTION: ☐SECOND: ☐

VOTE:

☐ PRESENTED☐ APPROVED☐ DECLINED ACTION☐ TABLED

STATE OF TEXAS           §

COUNTY OF WALKER       §

This is an agreement between the City of Huntsville, Texas, a home-rule municipal corporation, 1212 Avenue M, Huntsville, Texas 77340, and Christian Community Construction Team ID# 76-0417488, an IRS, 501(c)3 tax exempt, Texas not for profit corporation, located at 1614 Pin Oak Drive, Huntsville, Walker County, Texas.

1. Christian Community Construction Team agrees to tear down the City Records Building located at 1305 Avenue M, Huntsville, Walker County, Texas.
2. In consideration of the foregoing, the City of Huntsville will allow the Christian Community Construction Team to remove, dispose of and/or keep the materials from the demolition of the City Records Building except for the concrete foundation.
3. The Christian Community Construction Team agree that the performance of the services described in this agreement shall be in the capacity of an independent contractor and not as an officer, agent or employee of the City, and in this regard, Christian Community Construction Team agrees to hold the City harmless from all damages to property or injury to persons arising out of the acts or omissions of the Christian Community Construction Team or its officers, agents, or employees.
4. The Christian Community Construction Team as further consideration for receipt of the building materials agrees to use said materials for public purposes, including, but not limited to, the renovation and/or improvements to community wide citizen improvement projects within the City of Huntsville.
5. Christian Community Construction Team further warrants that if it sells any of the materials that it will use the proceeds for materials for public purposes, including but not limited to, the renovation and/or improvements to community wide citizen improvement projects within the City of Huntsville.
6. The Christian Community Construction Team further agrees, upon request, to provide documentation to the City showing how the materials were used for public purposes and that if for any reason any materials or funds from the sale of are not used for the purposes stated in the above paragraphs 4 and 5, the Christian Community Construction Team Christian Men's Renovation Group will reimburse the City for the value of said materials.
7. The Christian Community Construction Team must maintain an IRS 501(c)(3) or similar tax exempt status, and will furnish proof to City upon request.

Executed this \_\_\_\_ day of \_\_\_\_\_ 2010, executed in duplicate.

THE CITY OF HUNTSVILLE

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William Baine, City Manager

ATTEST:

---

Lee Woodward, City Secretary

APPROVED AS TO FORM:

---

Leonard Schneider, City Attorney

CHRISTIAN COMMUNITY CONSTRUCTION TEAM

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Noah Q. Speer, President, Corporation

# City Council Meeting Agenda Item

Item Title:

**Land/Property Services**

Date:

5/18/2010

Agenda Item No.:

7f

Requested By:

Sherry McKibben

Dept./Div:

620-1620

Dept. Approval:

WD

**Issue/Item Description:**

Selection of various services to secure property and land for low income housing grant.

**Background:**

The City of Huntsville received a Texas Department of Housing and Community Affairs Grant to build twelve low income housing units. This is the initial step to secure the land and property.

**Facts to Consider:**

- Land and property must be evaluated in accordance with grant requirements;
- Requests sent for real estate appraiser, land surveyor, home inspector and title company;
- Advertising and selection completed in accordance with grant requirements, City of Huntsville Purchasing Policy and Local Government Code.
- Ten (10) vendors responded to bid solicitation

**Fiscal Impact/Funding Source(s):**

620-1620-93170 NSP Grant Purchased Services and Contracts

Various dollar amounts depending on condition of property and required services.

**Attachment(s):**

- Bid Tabulation

**Recommendation(s):**

- Authorize City Manager to award contracts for Real Estate Appraisal and Land Surveyor to Property Insight Property Services, Home Inspection to Insight Property Inspections and Title Service to Walker County Title Company.

**MOTION:** ☐
**SECOND:** ☐
**VOTE:**
☐ **PRESENTED**
☐ **APPROVED**
☐ **DECLINED ACTION**
☐ **TABLED**

# Evaluation Criteria

April 22, 2010

Bid #10-A Land Services

P36

	Insight Property Services	Ratnala Bahl, Inc	Charles Rencher	Alliance Reality Advisors	Atrium Real Estate Services	Home Scope Real Estate Inspections	Insight Property Inspections	Walker County Title Co.	Jeffry Moon & Asso. Inc.	Town & Country Surveys
<b>Real Estate Appraisal</b>										
Proper Paperwork - 15 Points	15	15	10	15	15	No Bid	No Bid	No Bid	No Bid	No Bid
Experience - 20 Points	11	14	11	20	17	No Bid	No Bid	No Bid	No Bid	No Bid
References and Resumes - 10 Points	10	10	10	10	10	No Bid	No Bid	No Bid	No Bid	No Bid
Fair and Reasonable Price - 35 Points	35	30	25	25	20	No Bid	No Bid	No Bid	No Bid	No Bid
<b>Total</b>		69	56	70	62					
<b>Land Surveyor</b>										
Proper Paperwork - 15 Points	10	15	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	15	15
Experience - 20 Points	14	20	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	17	11
References and Resumes - 10 Points	10	10	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	10	10
Fair and Reasonable Price - 35 Points	35	5	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	15	25
<b>Total</b>	69	50							57	61
<b>Home Inspection</b>										
Proper Paperwork - 15 Points	15	10	No Bid	No Bid	No Bid	5	15	No Bid	No Bid	No Bid
Experience - 20 Points	14	20	No Bid	No Bid	No Bid	11	17	No Bid	No Bid	No Bid
References and Resumes - 10 Points	10	10	No Bid	No Bid	No Bid	5	10	No Bid	No Bid	No Bid
Fair and Reasonable Price - 35 Points	35	25	No Bid	No Bid	No Bid	20	35	No Bid	No Bid	No Bid
<b>Total</b>	74	65				41				
<b>Title Service</b>										
Proper Paperwork - 15 Points	15	5	No Bid	No Bid	No Bid	No Bid	No Bid	5		No Bid
Experience - 20 Points	10	0	No Bid	No Bid	No Bid	No Bid	No Bid	20		No Bid
References and Resumes - 10 Points	10	10	No Bid	No Bid	No Bid	No Bid	No Bid	5		No Bid
Fair and Reasonable Price - 35 Points	30	35	No Bid	No Bid	No Bid	No Bid	No Bid	35		No Bid
<b>Total</b>	65	50								

PRICING April 22, 2010 Bid 10-10-A Land Services										
	Insight Property Services	Ratnala Bahl, Inc	Charles Renchler	Alliance Reality Advisors	Atrium Real Estate Services	Home Scope Real Estate Inspections	Insight Property Inspections	Walker County Title Co.	Jeffrey Moon & Asso. Inc.	Town & Country Surveys
Real Estate Appraisal	\$ 350.00	\$ 400.00	\$ 500.00	350.00 - 650.00	\$2,400.00 - \$2,800.00	No Bid	No Bid	No Bid	No Bid	No Bid
Land Surveyor	\$ 245.00	\$ 880.00	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$ 850.00	\$ 500.00
Home Inspection	\$ 275.00	\$ 375.00	No Bid	No Bid	No Bid	\$ 1,200.00	\$ 275.00	No Bid	No Bid	No Bid
Title Service	\$670.00- \$1,340.00	\$ 625.00	No Bid	No Bid	No Bid	No Bid	No Bid	\$ 625.00	No Bid	No Bid

# City Council Meeting Agenda Item

Item Title:	Date:	Agenda Item No.:
<b>2010 Fleet Vehicles</b>	5/18/2010	79
Requested By:	Dept./Div:	Dept. Approval:
James Archie	389	WD

## Issue/Item Description:

Purchase one compact pick up truck, two full size pick up trucks and one police SUV to include equipment.

## Background:

The Fleet Replacement Schedule budget for FY 9-10 was approved for one (1) pick up truck to be placed in the Water Department and one (1) pick up truck to be placed in the Street Department and one (1) Explorer to be placed in the Police Department. A sealed bid was conducted in accordance with City of Huntsville's Purchasing Policy and Local Government Code.

## Facts to Consider:

- The Fleet Manager, Water Superintendent, Street Superintendent and Police Lieutenant have reviewed the bid packet and approved the specifications and purchase;
- Vehicles will be a combination of Ford and Chevrolet which allows for best pricing;
- Fleet Replacement budget for the pick up trucks is \$35,000.00, low bids total \$45,979.00;
- Pick up trucks are down graded allowing for optimizing fuel mileage;
- One 3/4 truck upgraded from step-down status;
- Fleet Replacement budget for the Police Explorer with equipment is \$30,975, low bids total \$21,891 for vehicle with \$10,609.96 for equipment total equals \$32,500.96;
- Police vehicle and equipment were upgraded;
- Best value to select Napa Auto Parts Huntsville, TX for purchase and installation of equipment;
- Twenty-eight (28) vendors were contacted and bid advertised on Bid Sync, Electronic State Business Daily, Huntsville Web Site and The Huntsville Item;
- Nine (9) vendors responded to bid.

## Fiscal Impact/Funding Source(s):

306-379-69040 Vehicle and Equipment Purchase:

	<u>Budget</u>	<u>Recommendation</u>
Vehicle (3)	57,500	51,039
Equipment(1)	<u>8,475</u>	<u>10,610</u>
Total	65,975	61,649

	<u>Not Budgeted</u>	<u>Recommendation</u>
3/4 Ton Truck	17,440	17,440

Budget for next fiscal year will be increased to accommodate vehicles not replaced this year (approx. \$218K). FEMA reimbursement funds and balances in this year (2009-10) budget will be available in next year's budget. Current year line item will accommodate this purchase.



**Attachment(s):**

- Bid Tabulation

**Recommendation(s):**

- Authorize City Manager to purchase one compact truck and one police flex-fuel SUV from Tommy Vaughan Ford, purchase two 3/4 ton trucks from Caldwell Country and to purchase police equipment from Napa Auto Parts, Safety Vision, Decatur and Graphics Int., with installation by Napa Auto Parts for an amount of \$78,480.00 as identified in the bid tabulation.

**MOTION:** ☐**SECOND:** ☐**VOTE:**☐ **PRESENTED**☐ **APPROVED**☐ **DECLINED ACTION**☐ **TABLED**☐ **OTHER**

Vendor Name	Compact Pickup Truck	Compact Pickup Truck Flex Fuel	3/4 Ton Trucks	3/4 Ton Trucks Flex Fuel	Police SUV	Police SUV Flex Fuel	Exterior Top Mount	Interior Rear Mount	Siren	Console	Speakers	Vault	Install	Graphics	Radar	In Car Video
Wiesner, Huntsville, TX	\$ 16,978.11	No Bid	\$ 24,978.41	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid			No Bid
Caldwell Country, Caldwell, TX	\$ 15,191.00	\$ 16,880.00	\$ 17,752.00	No Bid	\$ 24,986.00	\$ 24,986.00	\$ 1,895.00	\$ 450.00	Included w/Light Bar	\$ 450.00	Included w/Light Bar	\$ 1,000.00	\$ 1,900.00			No Bid
Planet Ford, Spring, TX	\$ 11,345.00	\$ 16,112.00	\$ 17,535.00	No Bid	\$ 22,721.00	\$ 22,960.00	\$ 1,895.00	\$ 450.00	Included w/Light Bar	\$ 425.00	Included w/Light Bar	\$ 1,000.00	\$ 1,900.00			No Bid
Tommy Vaughan, Houston, TX	\$ 11,099.00	No Bid	\$ 17,752.00	No Bid	\$ 21,891.00	\$ 21,891.00	\$ 1,389.00	\$ 315.00	\$ 695.00	\$ 398.00	\$ 140.00	\$ 2,128.00	\$ 760.00			No Bid
Atkinson Toyota, Madisonville, TX	\$ 17,500.00	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid			No Bid
Austin POMA, Austin, TX	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$ 1,200.00	\$ 255.00	\$ 224.00	No Bid	\$ 100.00	No Bid	No Bid			No Bid
Napa Auto, Huntsville, TX	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid	\$ 1,200.00	\$ 255.00	\$ 224.00	No Bid	\$ 100.00	No Bid	No Bid			No Bid
Reliable Chevrolet, Philpott Motors, HGAC	\$ 16,618.00	No Bid	\$ 22,515.00	No Bid	No Bid	\$ 25,047.00	\$ 1,300.00	\$ 450.00	\$ 795.00	\$ 475.00	\$ 150.00	\$ 1,100.00	\$ 1,400.00			No Bid
* Safety Vision, Houston, TX	\$ 13,952.78	No Bid	\$ 20,129.40	No Bid	No Bid	\$ 23,884.59	\$ 1,695.00	\$ 695.00	\$ 299.00	\$ 295.00	\$ 199.00	\$ 1,729.00	\$ 1,250.00			No Bid
* Decatur, Decatur, IL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			No Bid
*Graphics	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			No Bid
*ICVS, radar and graphics purchased direct due to standardization requirements.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			No Bid

\*NOTICE: Bid award is contingent upon vendor meeting bid requirements and formal authorization by City officials

5-11-10

Billie Smith (Purchasing Manager)

Date

# City Council Meeting Agenda Item

Item Title:

**Code of Ordinances, Section 24-1**

Date:

5/18/2010

Agenda Item No.:

82

Requested By:

Aron L. Kulhavy, AICP Public Works Director/City Planner

Dept./Div:

716

Dept. Approval:

AK

## Issue/Item Description:

Adoption of an ordinance amending Section 24-1 of the Code of Ordinances to adopt by reference any amendments to the Development Code.

## Background:

In the Code of Ordinances, Section 24, Land Development, Section 24-1 Regulations Adopted adopts the City's Development Code; however, the City Attorney advised staff that it does not make reference to adopting any of the amendments made to the Development Code.

Public hearing notification was published in the *Huntsville Item* on April 18, 2010 for both the P&Z and City Council meetings.

On May 6, 2010, the Planning and Zoning Commission held a public hearing and unanimously recommended wording to allow for any amendments to the Development Code to be adopted by reference.

On May 18, 2010, City Council is to hold a public hearing and a first reading of this proposed amendment.

## Facts to Consider:

- The City of Huntsville Code of Ordinances adopts the Development Code by reference
- The Code of Ordinances does not mention the adoption of amendments to the Development Code
- Upon consultation with the City Attorney, it was recommended that the change be made to clarify that amendments to the Development Code are addressed in the Code of Ordinances.

## Fiscal Impact/Funding Source(s):

None

## Attachment(s):

- Planning and Zoning Commission Discussion Form
- Ordinance

## Recommendation(s):

- Presentation, discussion and possible action to approve Ordinance 2010-31 on the proposed amendment to Section 24-1 Regulations Adopted of the Code of Ordinances.

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**MOTION:** ☐

**SECOND:** ☐

**VOTE:**

☐ **PRESENTED**

☐ **APPROVED**

☐ **DECLINED ACTION**

☐ **TABLED**

☐ **OTHER**



## PLANNING AND ZONING COMMISSION AGENDA ITEM DISCUSSION FORM

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Prepared by: Rose Kader, Planner      Aron Kulhavy, AICP, Public Works Director/City Planner

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**SUBJECT:** Code of Ordinances, Section 24-1. Regulations adopted.

**MEETING DATE:** May 6, 2010

**TYPE OF REVIEW:** Public Hearing, Administrative

**APPLICANT:** City of Huntsville

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### **FACTS, CODE REQUIREMENTS AND CONDITIONS**

The City Attorney advised staff that *Section 24-1. Regulations adopted* in the City of Huntsville *Code of Ordinances* does not adopt any amendments to the *Development Code*. Therefore, wording has been proposed (underlined) to allow for the automatic adoption of amendments.

*Sec. 24-1. Regulations adopted.*

*The land development regulations and any amendments thereto of the city are hereby adopted by reference and incorporated as if fully set forth herein. A copy of the development code is on file with the office of the city secretary, city engineer and city planner.*

This item, once acted upon, will be referred to City Council for a public hearing and final vote. Anticipated City Council date is May 18, 2010.

### **STAFF RECOMMENDATION:**

*Staff recommends approval of the proposed amendment to Section 24-1. Regulations adopted.*

### **ATTACHMENTS:**

None

## ORDINANCE NO. 2010-31

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING CHAPTER 24, LAND DEVELOPMENT, OF ITS CODE OF ORDINANCES; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE HEREOF.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, THAT:

**Section 1:** Section 24-1, Regulations Adopted, of Chapter 24, Land Development is hereby amended and shall be as follows:

“Sec. 24-1. Regulations adopted.

The land development regulations and any amendments thereto of the city are hereby adopted by reference and incorporated as if fully set forth herein. A copy of the development code is on file with the office of the city secretary, city engineer and city planner.”

**Section 2:** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect any of the remaining provisions of this ordinance.

**Section 3:** All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

**Section 4:** Notice of the agenda for this meeting, was given in accordance with law by posting the same at the place reserved and designated for notices of public meetings and public activities and prior to the adoption of this ordinance.

**Section 5:** This ordinance shall take effect ten (10) days after its passage by the City Council. The City Secretary shall publish the caption of this ordinance in the official City newspaper at least twice within ten (10) days of its passage.

**First Reading Date: May 18, 2010**

**PASSED AND APPROVED on the Second Reading on this the 1<sup>st</sup> day of June 2010.**

**THE CITY OF HUNTSVILLE**

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J. Turner, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Lee Woodward, City Secretary

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Leonard Schneider, City Attorney